

**MINUTES OF THE CITY-COUNTY COUNCIL  
AND  
SPECIAL SERVICE DISTRICT COUNCILS  
OF  
INDIANAPOLIS, MARION COUNTY, INDIANA**

**REGULAR MEETINGS  
MONDAY, JULY 18, 2016**

The City-County Council of Indianapolis, Marion County, Indiana and the Indianapolis Police Special Service District Council, Indianapolis Fire Special Service District Council and Indianapolis Solid Waste Collection Special Service District Council convened in regular concurrent sessions in the Council Chamber of the City-County Building at 7:02 p.m. on Monday, July 18, 2016, with Councillor Lewis presiding.

Councillor Fanning introduced Rabbi Shelley Goldman, Beth-El Zedeck, who led the opening prayer. Councillor Fanning then invited all present to join her in the Pledge of Allegiance to the Flag.

**ROLL CALL**

The President instructed the Clerk to take the roll call and requested members to register their presence on the voting machine. The roll call was as follows:

*23 PRESENT: Adamson, Clay, Coats, Cordi, Evans, Fanning, Gray, Holliday, Jackson, Johnson, Kreider, Lewis, Mascari, McHenry, McQuillen, Miller, Oliver, Osili, Pfisterer, Ray, Robinson, Sandlin, Simpson*  
*2 ABSENT: Freeman, Scales*

A quorum of twenty-three members being present, the President called the meeting to order.

**INTRODUCTION OF GUESTS AND VISITORS**

Councillor Sandlin recognized the Roncalli Baseball Team. Councillor Coats recognized Mike Reeves, president of Firefighters Union Local 416.

**OFFICIAL COMMUNICATIONS**

The President called for the reading of Official Communications. The Clerk read the following:

TO ALL MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA

*Journal of the City-County Council*

Ladies And Gentlemen :

You are hereby notified the REGULAR MEETINGS of the City-County Council and Police, Fire and Solid Waste Collection Special Service District Councils will be held in the City-County Building, in the Council Chambers, on Monday, July 18, 2016, at 7:00 p.m., the purpose of such MEETINGS being to conduct any and all business that may properly come before regular meetings of the Councils.

Respectfully,  
s/Maggie A. Lewis  
President, City-County Council

June 29, 2016

TO PRESIDENT LEWIS AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

Pursuant to the laws of the State of Indiana, I caused to be published in the *Court & Commercial Record* and in the *Indianapolis Star* on Friday, July 1, 2016 a copy of a Notice of Public Hearing on Proposal Nos. 244-246, 2016, said hearing to be held on Monday, July 18, 2016, at 7:00 p.m. in the City-County Building.

Respectfully,  
s/NaTrina DeBow  
Clerk of the City-County Council

July 6, 2016

TO PRESIDENT LEWIS AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

I have approved with my signature and delivered this day to the Clerk of the City-County Council, NaTrina DeBow, the following ordinances:

FISCAL ORDINANCE NO. 14, 2016 - approves a transfer of \$10,800 in the 2016 Budget of the Marion County Circuit Court (County General Fund) and a corresponding additional appropriation of \$10,800 in the 2016 Budget of the Public Defender Agency (County General Fund) to cover the cost of public defense services in Paternity Court

GENERAL ORDINANCE NO. 34, 2016 – authorizes intersection controls at Jackson and Plainview Streets (District 15)

GENERAL ORDINANCE NO. 35, 2016 – authorizes certain parking privileges and restrictions on the south side of Washington Street west of Alabama Street (District 16)

GENERAL ORDINANCE NO. 36, 2016 – authorizes intersection controls on Eagle Valley Pass at Hunters Path and Saddle Barn West Drive (District 6)

GENERAL ORDINANCE NO. 37, 2016 – authorizes intersection controls at Kiel Avenue and Ruskin Place West (District 10)

GENERAL ORDINANCE NO. 38, 2016 – authorizes intersection controls at Dorman Street and Marlowe Avenue (District 17)

GENERAL ORDINANCE NO. 39, 2016 – authorizes a speed limit reduction of 25 mph in the Eagle Creek Woods subdivision (District 6)

GENERAL ORDINANCE NO. 40, 2016 – amends Sec. 621-201(b) and 621-241 of the Code regarding parking meters and disbursements from the parking meter fund

s/Joseph H. Hogsett, Mayor

**ADOPTION OF THE AGENDA**

The President proposed the adoption of the agenda as distributed. Without objection, the agenda was adopted.

## **APPROVAL OF THE JOURNAL**

The President called for additions or corrections to the Journals of June 27, 2016. There being no additions or corrections, the minutes were approved as distributed.

## **PRESENTATION OF PETITIONS, MEMORIALS, SPECIAL RESOLUTIONS, AND COUNCIL RESOLUTIONS**

PROPOSAL NO. 270, 2016. The proposal, sponsored by Councillors Sandlin, Adamson, Freeman, Kreider, Lewis, Pfisterer, Ray, Cordi, Mascari and McHenry, recognizes the Roncalli High School baseball team for winning the 4A State Title in 2016. Councillor Sandlin read the proposal and presented members with copies of the document and Council pins. Coach Aaron Kroll thanked the Council for the recognition. Councillor Sandlin moved, seconded by Councillor Kreider, for adoption. Proposal No. 270, 2016 was adopted by a unanimous voice vote.

Proposal No. 270, 2016 was retitled SPECIAL RESOLUTION NO. 27, 2016, and reads as follows:

### **CITY-COUNTY SPECIAL RESOLUTION NO. 27, 2016**

A SPECIAL RESOLUTION recognizing the Roncalli High School baseball team for winning the 4A State Title in 2016.

WHEREAS, Roncalli won their first state baseball championship by winning the 4A State Championship during the annual Indiana High School Athletic Association (IHSAA) Baseball State Finals at Victory Field, in Indianapolis on June 17, 2016; and

WHEREAS, The Roncalli Rebels (23-9) defeated top-ranked Zionsville High School with a final score of 3-2; and

WHEREAS, the Roncalli High School team was led by Head Baseball Coach Aaron Kroll, and under his leadership were assistant coaches: Jay Hundley, Mark Pieper, Ryan Parrot, Chris Franklin, Ron Wilson, John Mullin and Roncalli High School Athletic Director, David Lauck; and

WHEREAS, the baseball team members consisted of: Jake Franklin (Captain), Max Bridgewater, Hayden Harper, Will Harris, Eric Schwartz, Nick Schnell, Conrad Daniel, Robbie Strader (Captain), Mark Cobb, Tyler Lucas, Cody Smith (Captain), Dylan Williams, Michael McAvene (Captain), Jake Evans, Brian Keeney, Johnny Anderson, Blake Chitwood, Harrison Koppenhofer, Pete Baker, Sam Phillips, and Bailey Mulinaro Sr. (Team Manager); now, therefore:

### **BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:**

SECTION 1. The Indianapolis City-County Council proudly recognizes the Roncalli High School Baseball team, The Roncalli Rebels, for winning the 2016 4A State Baseball Championship.

SECTION 2. The Council extends its congratulations to the entire team, coaching staff and school administration on their achievement. And wishes each player great success in their future endeavors, both athletically and academically.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 271, 2016. The proposal, sponsored by Councillors Jackson, Clay, Oliver, Gray, Simpson, Lewis and Adamson, honors Regina Marsh for her many years of service as the Chief Executive Officer of the Forest Manor Multi-Service Center. Councillors Clay and Jackson read the proposal and presented Ms. Marsh with a copy of the document and a Council pin. Ms.

Marsh thanked the Council for the recognition. Councillor Jackson moved, seconded by Councillor Clay, for adoption. Proposal No. 271, 2016 was adopted by a unanimous voice vote.

Proposal No. 271, 2016 was retitled SPECIAL RESOLUTION NO. 28, 2016, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 28, 2016

A SPECIAL RESOLUTION honoring Regina Marsh for her many years of service as the Chief Executive Officer of the Forest Manor Multi-Service Center (FMMS).

WHEREAS, Regina Marsh has served more than 20 years as a nonprofit and community advocate, committed to improving the quality of life for individuals who are traditionally underserved and under-represented within their local communities; and

WHEREAS, Ms. Marsh recently stepped down as the Chief Executive Officer of Forest Manor Multi-Service Center (FMMS) where she artfully led a staff of 20 in providing outreach programs including family and workforce development, senior services and wellness, child care and youth social development and mental health services; and

WHEREAS, since her arrival in 1998, she has raised over \$8 million to strengthen programming and outreach efforts. Prior to joining FMMS, Ms. Marsh worked for the Fall Creek YMCA and Martin Luther King Multi-Service Center; and

WHEREAS, Ms. Marsh's commitment is welcoming to the thousands of Indianapolis residents who have come to depend on the programs at FMMS. Her passion for assisting those in need extends beyond the State of Indiana. During the aftermath of Hurricane Katrina, Ms. Marsh and her staff mobilized and provided assistance to the American Red Cross offering case management services for 60 displaced families. Additionally, she utilized her relationship with local broadcasting organization, Radio One, and led a fundraising campaign generating over \$14,000 during the one-day event; and

WHEREAS, Ms. Marsh currently serves on the board of directors of the National Association of Child Safety, the Charles Tindley Accelerated Charter School, Public Safety Board and Citizen Gas. She is also involved in a host of community organizations including the Coalition of Northeast Neighborhoods, United Neighborhood Centers of America, The National Action Network (Indiana) and the 38<sup>th</sup> Street Business League; and

WHEREAS, Ms. Marsh has created an enviable legacy in her years of public service to the people of Marion County. She was recently awarded The Sagamore of the Wabash award. A dynamic speaker and community advocate, Ms. Marsh is often tapped by local leaders to develop opportunities and garner support for initiatives designed to enrich the lives of residents around the city; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council proudly honors Regina Marsh for her dedication and commitment to improving the quality of life and outlook for the families and the community she serves.

SECTION 2. The Council thanks Ms. Marsh and wishes her continued success in all future endeavors.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 272, 2016. The proposal, sponsored by Councillors Osili and Gray, recognizes the St. Florian Center Leadership Development Summer Camp. Councillors Osili and Jackson read the proposal and presented representatives with copies of the document and Council pins. Chief Williamson thanked the Council for the recognition. Councillor Osili moved, seconded by Councillor Jackson, for adoption. Proposal No. 272, 2016 was adopted by a unanimous voice vote.

July 18, 2016

Proposal No. 272, 2016 was retitled SPECIAL RESOLUTION NO. 29, 2016, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 29, 2016

A SPECIAL RESOLUTION recognizing the St. Florian Center Leadership Development Summer Camp.

WHEREAS, named after the patron saint of firefighters, the St. Florian Center (SFC) was founded in 1992 by two Indianapolis Fire Department firefighters: Anthony Williamson and Isaac Randolph; and

WHEREAS, the mission of SFC is to provide Indianapolis youth an opportunity to develop leadership skills, problem solving methods, and survival tactics, while fostering core values such as honesty, respect, responsibility and character through a variety of programs and opportunities in order to create leaders of tomorrow; and

WHEREAS, each year, SFC serves approximately 100 children between the ages of 6 and 17 who, over the course of seven weeks, participate in various activities that are geared towards helping them prepare and succeed in the real world. These activities include: Leadership/Teamwork and Health/Safety; Art with a Heart; Computer Informatics; Law and Government; Business; Science, Technology, Engineering and Mathematics (STEM); and Empowerment and Civility. The program also provides sessions in tobacco, alcohol and drug awareness; violence and other preventative practices; college preparation; and philanthropic opportunities; and

WHEREAS, each year the campers are challenged to take over all operations of the camp, which means they plan their daily schedule with motivational speakers, fun activities, meals, athletics, and awards, based on a balanced budget; and

WHEREAS, the youth practice leading by example with a positive attitude, being confident, using manners, showing initiative, problem solving, setting goals, making good decisions, and developing healthy lifestyles; and

WHEREAS, by the end of the summer program, the campers know that they must Do Something Positive, Be Someone Positive, and Have Something Positive to be great future leaders of the world; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council proudly recognizes the St. Florian Center Leadership Development Summer Camp.

SECTION 2. The Council heartily thanks the St. Florian Center for its dedication to the enrichment, encouragement and empowerment of the youth of Indianapolis.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 222, 2016. Councillor Johnson reported that the Rules and Public Policy Committee heard Proposal No. 222, 2016 on July 12, 2016. The proposal, sponsored by Councillor Johnson, confirms the mayor's appointment nomination of Anne Nobles to the City-County Ethics Commission. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Johnson moved, seconded by Councillor Adamson, for adoption. Proposal No. 222, 2016 was adopted on the following roll call vote; viz:

23 YEAS: Adamson, Clay, Coats, Cordi, Evans, Fanning, Gray, Holliday, Jackson, Johnson,  
Kreider, Lewis, Mascari, McHenry, McQuillen, Miller, Oliver, Osili, Pfisterer, Ray,  
Robinson, Sandlin, Simpson  
0 NAYS:  
2 ABSENT: Freeman, Scales

Proposal No. 222, 2016 was retitled COUNCIL RESOLUTION NO. 88, 2016, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 88, 2016

A COUNCIL RESOLUTION confirming Mayor Joseph H. Hogsett's appointment nomination of Anne Nobles to the City-County Ethics Commission.

WHEREAS, pursuant to Sec. 293-332 of the "Revised Code of the Consolidated City and County," a City-County Ethics Board nomination is subject to confirmation by the City-County Council; and

WHEREAS, each appointment after the initial appointments shall be for a term of three (3) years ending on December 31; and

WHEREAS, the Office of the Mayor has submitted to this Council the name of Anne Nobles to serve a term as a member of the City-County Ethics Commission; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

SECTION 1. Anne Nobles is hereby confirmed by the City-County Council to serve as a member of City-County Ethics Commission.

SECTION 2. Anne Nobles' term shall commence upon the passage of this resolution and expire on December 31, 2018, unless otherwise removed by the City-County Council under § 293-332(d).

SECTION 3. This resolution shall be in full force and effect upon adoption and compliance with Ind. Code § 36-3-4-14.

PROPOSAL NO. 243, 2016. Councillor Robinson reported that the Public Safety and Criminal Justice Committee heard Proposal No. 243, 2016 on July 6, 2016. The proposal, sponsored by Councillors Robinson and Lewis, appoints Michael Bryant to the Citizens Police Complaint Board. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Jackson asked if the chair has the appointee's resume and knows if he resides in Marion County. Councillor Robinson said that he believes he does, and the Clerk can provide that information to Councillor Jackson if she wishes to see it.

Councillor Clay said that he has known Mr. Bryant, and educator, for over 30 years. He said that he has the analytical ability and spiritual acumen to make him well-suited to serve in this capacity.

Councillor Robinson moved, seconded by Councillor Oliver, for adoption. Proposal No. 243, 2016 was adopted on the following roll call vote; viz:

23 YEAS: Adamson, Clay, Coats, Cordi, Evans, Fanning, Gray, Holliday, Jackson, Johnson, Kreider, Lewis, Mascari, McHenry, McQuillen, Miller, Oliver, Osili, Pfisterer, Ray, Robinson, Sandlin, Simpson  
0 NAYS:  
2 ABSENT: Freeman, Scales

Proposal No. 243, 2016 was retitled COUNCIL RESOLUTION NO. 89, 2016, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 89, 2016

A COUNCIL RESOLUTION appointing Michael Bryant to the Citizens Police Complaint Board.

*July 18, 2016*

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Citizens Police Complaint Board, the Council appoints:

Michael Bryant

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2018. The person appointed by this resolution shall serve at the pleasure of the Council and for sixty (60) days after the expiration of such term or until such earlier date as successor is appointed and qualifies.

**INTRODUCTION OF PROPOSALS**

PROPOSAL NO. 264, 2016. Introduced by Councillor Simpson. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an additional appropriation of \$2,367,000 in the 2016 Budget of the Marion County Auditor (County General and Ineligible Deductions Funds) to cover countywide worker's compensation claims, trial changes of venue costs, and third party contract for ineligible homestead efforts"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 265, 2016. Introduced by Councillors Miller and Scales. The Clerk read the proposal entitled: "A Proposal for a General Resolution which approves the statement of benefits of Walker Information, Inc. and River Crossing Four, an applicant for tax abatement located in an economic revitalization area"; and the President referred it to the Metropolitan and Economic Development Committee.

PROPOSAL NO. 266, 2016. Introduced by Councillors Osili, Adamson, McQuillen, Fanning, Kreider, Johnson, Miller, Lewis and Robinson. The Clerk read the proposal entitled: "A Proposal for a General Resolution which approves the designation of certain real property as a high technology district area and specifies that qualified property owned by salesforce.com is exempt from property taxation"; and the President referred it to the Metropolitan and Economic Development Committee.

PROPOSAL NO. 267, 2016. Introduced by Councillor Osili. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which amends portions of the Code regarding the Wellfield Protection Secondary Zoning District to adopt new wellfield protection district maps submitted by Speedway and Lawrence water utilities"; and the President referred it to the Metropolitan and Economic Development Committee.

PROPOSAL NO. 268, 2016. Introduced by Councillor Robinson. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which amends Chapter 135 of the Code regarding non-reverting funds of the Indianapolis Metropolitan Police Department"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 269, 2016. Introduced by Councillor Lewis. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which amends Sec. 135-751 of the Code to authorize funding for fiscal monitoring purposes"; and the President referred it to the Rules and Public Policy Committee.

PROPOSAL NO. 273, 2016. Introduced by Councillor Osili. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes angled parking along the west side of Senate Avenue between Michigan Street and Indiana Avenue (District 11)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 279, 2016. Introduced by Councillor Adamson. The Clerk read the proposal entitled: "A Proposal for a General Resolution which grants authorization to the Indianapolis Marion County Public Library to exercise eminent domain over particular parcels of land for the Brightwood Branch Facility Improvement Project"; and the President referred it to the Municipal Corporations Committee.

### **SPECIAL ORDERS - PRIORITY BUSINESS**

PROPOSAL NO. 263, 2016. Councillor Osili reported that the Metropolitan and Economic Development Committee heard Proposal No. 263, 2016 on July 11, 2016. The proposal, sponsored by Councillor Kreider, final bond ordinance for Hellenic Senior Living of Indianapolis, LLC for the issuance of multi-family revenue bonds in an aggregate principal amount not to exceed \$16,500,000 to provide a portion of the cost of the acquisition, design, construction and equipping of a 125-unit assisted living multi-family housing facility, with functionally related and subordinate facilities for low and moderate income seniors (District 23). By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Osili moved, seconded by Councillor Kreider, for adoption. Proposal No. 263, 2016 was adopted on the following roll call vote; viz:

*23 YEAS: Adamson, Clay, Coats, Cordi, Evans, Fanning, Gray, Holliday, Jackson, Johnson, Kreider, Lewis, Mascari, McHenry, McQuillen, Miller, Oliver, Osili, Pfisterer, Ray, Robinson, Sandlin, Simpson*

*0 NAYS:*

*2 ABSENT: Freeman, Scales*

Proposal No. 263, 2016 was retitled SPECIAL ORDINANCE NO. 3, 2016, and reads as follows:

#### **CITY-COUNTY SPECIAL ORDINANCE NO. 3, 2016**

A SPECIAL ORDINANCE authorizing the City of Indianapolis to issue one or more series of its City of Indianapolis, Indiana Multi-Family Housing Revenue Bonds, Series 2016 (Hellenic Senior Living of Indianapolis Project) (with such further series or other designation as determined to be necessary, desirable, or appropriate), in a maximum aggregate principal amount not to exceed Sixteen Million Five Hundred Thousand Dollars (\$16,500,000) (the "Bonds") and approving and authorizing other actions in respect thereto.

WHEREAS, Indiana Code 36-7-11.9 and 12 (collectively, the "Act") declares that the financing and refinancing of economic development facilities constitutes a public purpose; and

WHEREAS, pursuant to the Act, the City of Indianapolis, Indiana (the "City") is authorized to issue revenue bonds and lend the proceeds thereof to a developer for the purpose of financing, reimbursing or refinancing the costs of acquisition, design, construction and equipping of economic development facilities in order to foster diversification of economic development and creation or retention of opportunities for gainful employment in or near the City; and

WHEREAS, the Act provides that such bonds may be secured by a trust indenture between an issuer and a corporate trustee; and

WHEREAS, Hellenic Senior Living of Indianapolis, LLC (the "Borrower") desires to finance a portion of the costs of acquisition, design, construction and equipping of an approximately 125-unit assisted living multi-family housing facility together with certain functionally-related facilities for low and moderate income seniors to be located at 8601 Shelby Street, in Indianapolis, Indiana (collectively, the "Project"), located in Council District 23 of the City-County Council of the City of Indianapolis and of Marion County, Indiana (the "City-County Council"); and

WHEREAS, the Borrower has advised the Indianapolis Economic Development Commission (the "Commission") and the City concerning the Project, and requested that the City issue one or more series of its tax-exempt Multi-Family Housing Revenue Bonds, Series 2016 (Hellenic Senior Living of Indianapolis Project) (with such further series or other designation as determined to be necessary, appropriate or desirable), in an aggregate principal amount not to exceed



*July 18, 2016*

Sixteen Million Five Hundred Thousand Dollars (\$16,500,000) (the “Bonds”) under the Act and lend all or a portion of the proceeds of such Bonds to the Borrower for the purpose of paying all or a portion of the costs of the Project, including but not limited to, paying all incidental expenses incurred on account of the issuance of the Bonds; and

WHEREAS, the Commission has rendered a report concerning the proposed financing of economic development facilities for the Borrower and the Metropolitan Development Commission of Marion County, Indiana, has been given the opportunity to comment thereon; and

WHEREAS, the Commission has determined that the Project will not have an adverse competitive effect or impact on any similar facility or facilities of the same kind already constructed or operating in the same market area or in or about Marion County, Indiana; and

WHEREAS, pursuant to Section 24 of the Act and certain provisions of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, (the “Code”), the Commission held a public hearing on July 6, 2016, following publication of notice duly given (the “Public Hearing”) for the purpose of receiving evidence and testimony on the Project and matters related to the proposed financing thereof and heard all persons interested in the proceedings and considered written remonstrances and objections, if any; and

WHEREAS, following the Public Hearing, the Commission found that the financing of the Project complies with the purposes and provisions of the Act, that such financing will be of benefit to the health and welfare of the City and its citizens through the requirements that the Project serve persons and families of low and moderate income, that the amount of tax credits to be allocated to the Project under Section 42 of the Code does not exceed the amount necessary for the financial feasibility of the project and its viability as a qualified housing project throughout the credit period for the Project, and that the Project satisfied the requirements for the allocation of a housing credit dollar amount under the Indiana Housing and Community Development Authority’s qualified allocation plan; and

WHEREAS, pursuant to and in accordance with the Act, the City desires to provide funds necessary to finance all or a portion of the Project by issuing the Bonds; and

WHEREAS, the City intends to issue the Bonds consistent with the terms of this Ordinance and pursuant to a Trust Indenture, to be dated the first day of the month in which the Bonds are sold or delivered (or such other date as the officers of the City may hereafter approve) (the “Indenture”), by and between the City and a corporate trustee to be selected by the Borrower (the “Trustee”), in order to obtain funds to lend to the Borrower for the purpose of financing all or a portion of the Project in accordance with the terms of a Loan Agreement, to be dated the first day of the month in which the Bonds are sold or delivered (or such other date as the officers of the City may hereafter approve) (the “Loan Agreement”), by and between the City and the Borrower with respect to Bonds and the Project, provided, however, that the aggregate principal amount of the Bonds shall not exceed \$16,500,000; and

WHEREAS, pursuant to the Loan Agreement, the Borrower will make certain representations, warranties and commitments with respect to the Project and will agree to make payments sufficient to pay all principal of, premiums, if any, and interest on the Bonds as the same becomes due and payable, and to pay administrative expenses in connection with the Bonds; and

WHEREAS, no member of the City-County Council has any pecuniary interest in any employment, financing agreement or other contract made under the provisions of the Act and related to the Bonds authorized herein, which pecuniary interest has not been fully disclosed to the City-County Council and no such member has voted on any such matter, all in accordance with the provisions of Indiana Code 36-7-12-16; and

WHEREAS, the Commission approved the terms of the following documents in substantially final form: the Indenture with respect to the Bonds between the City and a corporate trustee to be selected (including a form of the Bonds), the Loan Agreement between the City and the Borrower with respect to the Project and the Bonds, the Placement Agent Agreement between the City and the placement agent for the Bonds, and the Land Use Restriction Agreement (collectively, the “Financing Documents”), and this proposed form of ordinance, each of which were incorporated by reference in the Commission’s Resolution adopted on July 6, 2016, which Resolution has been transmitted hereto; and

WHEREAS, the City expects to pay for certain costs of the Bonds or costs related to the Project (collectively, the “Expenditures”) prior to the issuance of the Bonds, and to reimburse the Expenditures with proceeds received by the City upon the issuance of the Bonds; and

WHEREAS, based upon the resolution adopted by the Commission pertaining to the Project, the City-County Council hereby finds and determines that the funding approved by the Commission for all or a portion of the Project

will be of benefit to the health and general welfare of the citizens of the City, complies with the provisions of the Act and the amount necessary to finance all or a portion of the costs of the Project will require the issuance, sale and delivery of one or more series of tax-exempt multifamily housing revenue bonds in an aggregate combined principal amount not to exceed Sixteen Million Five Hundred Thousand Dollars (\$16,500,000); now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. It is hereby found, determined, ratified and confirmed that the financing of the economic development facilities referred to in the Financing Documents consisting of the Project, the issuance and sale of the Bonds, and the loan of the proceeds thereof to the Borrower for the purpose of financing all or a portion of the Project (i) will result in the diversification of industry, the creation or retention of business opportunities and the creation or retention of opportunities for gainful employment within the jurisdiction of the City, (ii) will serve a public purpose, and will be of benefit to the health and general welfare of the City, (iii) complies with the purposes and provisions of the Act and it is in the public interest that the City take such lawful action as determined to be necessary or desirable to encourage the diversification of industry, the creation or retention of business opportunities, and the creation or retention of opportunities for gainful employment and providing quality affordable multifamily housing within the jurisdiction of the City, and (iv) will not have a material adverse competitive effect on any similar facilities already constructed or operating in or near Marion County, Indiana.

SECTION 2. The forms of the Financing Documents presented herewith are hereby approved and all such documents shall be kept on file by the Clerk of the City-County Council or City Controller. In compliance with Indiana Code 36-1-5-4, two (2) copies of the Financing Documents are on file in the office of the Clerk of the City-County Council for public inspection.

SECTION 3. The City shall issue its Bonds in one or more series, as described above, in the maximum aggregate principal amount not to exceed Sixteen Million Five Hundred Thousand Dollars (\$16,500,000), with a maximum term not to exceed forty (40) years and with a maximum interest rate not to exceed six and one-quarter percent (6.25%) per annum, for the purpose of procuring funds to loan to the Borrower in order to finance all or a portion of the Project, which Bonds will be payable as to principal and interest solely from payments made by the Borrower pursuant to the Financing Documents, and upon such terms and conditions as otherwise provided in the Financing Documents and this Ordinance. The Bonds shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the City.

SECTION 4. The Mayor and Controller of the City are authorized and directed to sell such Bonds to the purchaser or purchasers thereof at a price not less than 100% of the aggregate principal amount thereof plus accrued interest, if any, at a rate of interest not to exceed six and one-quarter percent (6.25%) per annum, and with a final maturity no later than forty (40) years from the date of the issuance of any series of Bonds. One or more bond placement agreements, each in form and substance acceptable to the Mayor and the Controller (collectively, the "Placement Agreement"), may be, and hereby are, approved, and the Mayor and the Controller are hereby authorized and directed to execute and deliver the Placement Agreement in form and substance acceptable to them and consistent with the terms and conditions set forth in this Ordinance. If necessary or desirable in connection with the sale of the Bonds, each of the Mayor, the Controller and any other officer of the City is authorized to enter into a continuing disclosure undertaking agreement, in compliance with Rule 15c2-12 of the Securities and Exchange Commission, which will be in such a form as may be deemed necessary, appropriate or desirable by each of the Mayor, the Controller and any other officer of the City, with such to be conclusively evidenced by execution thereof by any such officer.

SECTION 5. The Mayor and the Clerk are authorized and directed to execute the Financing Documents, and the Mayor, the Controller and the Clerk and any officer of the City are authorized and directed to execute such other documents approved or authorized herein and any other document which may be necessary, appropriate or desirable to consummate the transaction contemplated by the Financing Documents and this Ordinance, and their execution is hereby confirmed on behalf of the City. The signatures of the Mayor and the Clerk on the Bonds which may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the City. The signatures of the Mayor and the Clerk on the Bonds may be facsimile signatures. The Mayor, the Controller, the Clerk and any other officer of the City are authorized to arrange for the delivery of such Bonds to the purchaser, payment for which will be made in the manner set forth in the Financing Documents. The Mayor, the Clerk and any other officer of the City may, by their execution of the Financing Documents requiring their signatures and imprinting of their facsimile signatures thereon, approve any and all such changes therein and also in those Financing Documents which do not require the signature of the Mayor, the Clerk or any other officer of the City without further approval of this City-County Council or the Commission if such changes do not affect terms set forth in Sections 27(a)(1) through and including (a)(10) of the Act.

SECTION 6. The provisions of this Ordinance and the Financing Documents shall constitute a contract binding between the City and the holder or holders of the Bonds and after the issuance of said Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the right of such holder or holders so long as said Bonds or the interest thereon remains unpaid.

SECTION 7. It is hereby determined that the amount of the tax credits to be allocated to the Project under Section 42 of the Code does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project. In making the foregoing determination, the City-County Council has relied upon the representations of the Borrower. The foregoing determinations shall not be construed to be a representation or warranty by the Issuer as to the feasibility or viability of the Project. The City-County Council hereby authorizes and directs the Auditor of Marion County to review and make the foregoing determination again for and on behalf of Marion County at the request of the Borrower, following receipt of supporting materials submitted by the Borrower to the Indiana Housing and Community Development Authority ("IHCDA") and either written representations of the Borrower or of IHCDA to the effect that (i) the amount of tax credits to be allocated to the Project under Section 42 of the Code does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project and (ii) the Project satisfied the requirements for the allocation of a housing credit dollar amount under IHCDA's qualified allocation plan. Such determinations shall occur on or about the date of the sale of the Bonds to the purchasers thereof and on or about the date that each building of the Project is placed in service. In reliance upon the representations of the Borrower, it is hereby found and determined that the Project satisfied the requirements for the allocation of a housing credit dollar amount under IHCDA's qualified allocation plan.

SECTION 8. Subject to the obligations of the Borrower set forth in the Loan Agreement, the Land Use Restriction Agreement and/or the certificates or other agreements of the Borrower to be executed upon the issuance of the Bonds, the City will use its best efforts to restrict the use of the proceeds of the Bonds in such a manner and to expectations at the time the Bonds are delivered to the purchasers thereof, so that they will not constitute "arbitrage bonds" under Section 148 of the Code and the regulations promulgated thereunder, or to preserve any other desired tax status of any series of Bonds under the Code, if necessary. The Mayor, the Controller and the Clerk, or any other officer having responsibility with respect to the issuance of the Bonds, are authorized and directed, alone or in conjunction with any of the foregoing, or with any other officer, employee, consultant or agent of the City, to deliver a certificate for inclusion in the transcript of proceedings for the Bonds, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to said Section 148 of the Code and the regulations thereunder.

SECTION 9. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this ordinance, the Financing Documents or under any judgment obtained against the City, including without limitation its Commission, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the Loan Agreement, shall be had against any member, director, or officer or attorney, as such, past, present, or future, of the City, including without limitation its Commission, either directly or through the City, or otherwise, for the payment for or to the City or any receiver thereof or for or to any holder of the Bonds secured thereby, or otherwise, of any sum that may remain due and unpaid by the City upon any of such Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, director, or officer or attorney, as such, to respond by reason of any act or omission on his or her part or otherwise for, directly or indirectly, the payment for or to the City or any receiver thereof, or for or to any owner or holder of the Bonds, or otherwise, of any sum that may remain due and unpaid upon the Bonds hereby secured or any at them, shall be expressly waived and released as a condition of and consideration for the execution and delivery of the Loan Agreement and the issuance, sale and delivery of the Bonds.

SECTION 10. The Borrower will indemnify and hold the City, including its officials, attorneys, employees and agents, free and harmless from any loss, claim, damage, tax, penalty, liability, disbursement, litigation expenses, attorneys' fees and expenses and other court costs arising out of, or in any way relating to, the execution or performance of the Financing Documents or other documents in connection therewith or any other cause whatsoever pertaining to the Project or the Bonds, including the issuance and sale of the Bonds or failure to issue or sell the Bonds or other actions taken under the Financing Documents or other documents in connection therewith or any other cause whatsoever pertaining to the Project or the Bonds arising out of a failure or breach of performance by the Borrower, all as further described in the Loan Agreement, except in any case as a result of the intentional misrepresentation or willful misconduct of the City or its agents.

SECTION 11. The Mayor, the Controller, the Clerk and any other officer of the City are each hereby authorized and directed to execute, attest and deliver such further instruments and documents and to take such further actions, in the name and on behalf of the City, as in their judgment shall be necessary, desirable or appropriate in order to fully consummate the transaction and to effect the purposes of this Ordinance, and any such instruments or documents

heretofore executed and delivered and any such actions heretofore taken, be, and hereby are, ratified and approved. The Mayor or his designee is hereby authorized to enter into one or more project agreements with the Borrower, on terms and conditions acceptable to the Mayor, together with any all changes as may be necessary, desirable or appropriate, which shall be evidenced by his execution thereof.

SECTION 12. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 13. All ordinances, resolutions and orders or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

SECTION 14. It is hereby determined that all formal actions of the City-County Council relating to the adoption of this Ordinance were taken in one or more open meetings of the Council, that all deliberations of the City-County Council and of its committees, if any, which resulted in formal action, were in meetings open to the public, and that all such meetings were convened, held and conducted in compliance with applicable legal requirements, including Indiana Code 5-14-1.5, as amended.

SECTION 15. This Ordinance shall be in full force and effect upon adoption and compliance with Indiana Code 36-3-4-14.

PROPOSAL NO. 274, 2016 and PROPOSAL NOS. 275-278, 2016. Introduced by Councillor Osili. Proposal No. 274 2016 and Proposal Nos. 275-278, 2016 are proposals for Rezoning Ordinances certified by the Metropolitan Development Commission on July 7, 2016. The President called for any motions for public hearings on any of those zoning maps changes. There being no motions for public hearings, the proposed ordinances, pursuant to IC 36-7-4-608, took effect as if adopted by the City-County Council, were retitled for identification as REZONING ORDINANCE NOS. 57-61, 2016, the original copies of which ordinances are on file with the Metropolitan Development Commission, which were certified as follows:

REZONING ORDINANCE NO. 57, 2016.

2016-ZON-014

823 CHADWICK STREET AND 828 SOUTH MISSOURI STREET (APPROXIMATE ADDRESS)

CENTER TOWNSHIP, CD #16

OVERTON, LLC, by David Kingen and Justin Kingen

Rezoning of 0.43 acre, from the I-3U (RC) District, to the CBD-2 (RC) classification.

REZONING ORDINANCE NO. 58, 2016.

2016-ZON-010

1801 NORTH SENATE BOULEVARD (APPROXIMATE ADDRESS)

CENTER TOWNSHIP, CD #11

CLARIAN HEALTH PARTNERS / METHODIST HOSPITAL OF INDIANA, by David Kingen and Justin Kingen

Rezoning of 0.93 acre, from the HD-2 (W-5) District, to the HD-1 (W-5) classification.

REZONING ORDINANCE NO. 59, 2016.

2016-ZON-028

7711 HOLIDAY DRIVE, EAST (APPROXIMATE ADDRESS), TOWN OF  
MERIDIAN HILLS

WASHINGTON TOWNSHIP, CD #2

ROMAN CATHOLIC ARCHDIOCESE OF INDIANAPOLIS, INC., AS TRUSTEE FOR ST. LUKE, by  
Paul J. Carroll

Rezoning of 0.83 acre, from the D-1 District, to the SU-1 classification to provide for religious uses,  
specifically a daycare facility.

REZONING ORDINANCE NO. 60, 2016.

2016-CZN-802 (AMENDED)

3715 SOUTH STATE AVENUE (APPROXIMATE ADDRESS)

PERRY TOWNSHIP, CD #21

BIRGE AND HELD ASSET MANAGEMENT LLC, by Steven B. Granner

July 18, 2016

Rezoning of 2.28 acres from the D-4 district to the D-8 classification to provide for residential uses.

REZONING ORDINANCE NO. 61, 2016.

2016-CZN-808

7624 SOUTH MERIDIAN STREET (APPROXIMATE ADDRESS)

PERRY TOWNSHIP, CD #23

LRM, LLC, by Joseph D. Calderon

Rezoning of one acre from the D-A and C-4 districts to the C-4 classification.

### **SPECIAL ORDERS - PUBLIC HEARING**

PROPOSAL NO. 244, 2016. Councillor Robinson reported that the Public Safety and Criminal Justice Committee heard Proposal No. 244, 2016 on July 6, 2016. The proposal, sponsored by Councillor Robinson, approves an additional appropriation of \$135,600 in the 2016 Budget of the Marion County Sheriff's Office (State Grants Fund) to provide mental and behavioral treatment programs in the Marion County Jail, funded by a grant from the Indiana Department of Corrections. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Miller said that he is extremely with this attempt to provide these kinds of treatment programs for inmates which will help address the jail overcrowding.

The President called for public testimony at 7:43 p.m. There being no one present to testify, Councillor Robinson moved, seconded by Councillor Oliver, for adoption. Proposal No. 244, 2016 was adopted on the following roll call vote; viz:

*23 YEAS: Adamson, Clay, Coats, Cordi, Evans, Fanning, Gray, Holliday, Jackson, Johnson, Kreider, Lewis, Mascari, McHenry, McQuillen, Miller, Oliver, Osili, Pfisterer, Ray, Robinson, Sandlin, Simpson*

*0 NAYS:*

*2 ABSENT: Freeman, Scales*

Proposal No. 244, 2016 was retitled FISCAL ORDINANCE NO. 15, 2016, and reads as follows:

#### **CITY-COUNTY FISCAL ORDINANCE NO. 15, 2016**

A FISCAL ORDINANCE amending the City-County Annual Budget for 2016 (City-County Fiscal Ordinance No. 36, 2015) by appropriating a total of \$135,600 for purposes of the Marion County Sheriff's Office.

#### **BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:**

SECTION 1. To provide for expenditures the necessity for which has arisen since its adoption, the City-County Annual Budget for 2016 is hereby amended by the increases hereinafter stated for purposes of the Marion County Sheriff's Office.

SECTION 2. The Marion County Sheriff's Office, requests an additional appropriation in the State Grants Fund to provide staffing, supplies and equipment for mental and behavioral treatment programs in the Marion County Jail. The following changes to appropriations are hereby approved:

<b>FUND</b>	<b>CHAR 1</b>	<b>CHAR 2</b>	<b>CHAR 3</b>	<b>CHAR 4</b>	<b>TOTAL</b>
State Grants 21051	123,200	5,000	7,400	0	135,600

SECTION 3. Except to the extent of matching funds, if any, approved in this ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the controller are directed to

notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 4. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 245, 2016. Councillor Robinson reported that the Public Safety and Criminal Justice Committee heard Proposal No. 245, 2016 on July 6, 2016. The proposal, sponsored by Councillor Robinson, approves an additional appropriation of \$55,757 in the 2016 Budget of the Marion County Public Defender Agency (State Grants Fund) to hire two attorneys for representation in Alternative and Mental Health Court, funded by a grant from the Indiana Department of Corrections. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. The President called for public testimony at 7:44 p.m. There being no one present to testify, Councillor Robinson moved, seconded by Councillor Adamson, for adoption. Proposal No. 245, 2016 was adopted on the following roll call vote; viz:

23 YEAS: Adamson, Clay, Coats, Cordi, Evans, Fanning, Gray, Holliday, Jackson, Johnson, Kreider, Lewis, Mascari, McHenry, McQuillen, Miller, Oliver, Osili, Pfisterer, Ray, Robinson, Sandlin, Simpson  
0 NAYS:  
2 ABSENT: Freeman, Scales

Proposal No. 245, 2016 was retitled FISCAL ORDINANCE NO. 16, 2016, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 16, 2016

A FISCAL ORDINANCE amending the City-County Annual Budget for 2016 (City-County Fiscal Ordinance No. 36, 2015) by appropriating a total of \$55,757 for purposes of the Marion County Public Defender Agency.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since its adoption, the City-County Annual Budget for 2016 is hereby amended by the increases hereinafter stated for purposes of the Marion County Public Defender Agency.

SECTION 2. The Marion County Public Defender Agency, requests an additional appropriation in the State Grants Fund to be allocated for the Court Recidivism Reduction Programs in the Alternative and Mental Health Courts. The following changes to appropriations are hereby approved:

FUND	CHAR 1	CHAR 2	CHAR 3	CHAR 4	TOTAL
State Grants 21051	55,757				55,757

SECTION 3. Except to the extent of matching funds, if any, approved in this ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the controller are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 4. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 246, 2016. Councillor Robinson reported that the Public Safety and Criminal Justice Committee heard Proposal No. 246, 2016 on July 6, 2016. The proposal, sponsored by Councillor Robinson, approves an additional appropriation of \$595,935 in the 2016 Budget of the Marion Superior Court (State Grants Fund) to implement the Court Recidivism Reduction Program, funded by a grant from the Indiana Department of Corrections. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. The

July 18, 2016

President called for public testimony at 7:45 p.m. There being no one present to testify, Councillor Robinson moved, seconded by Councillor Simpson, for adoption. Proposal No. 246, 2016 was adopted on the following roll call vote; viz:

23 YEAS: Adamson, Clay, Coats, Cordi, Evans, Fanning, Gray, Holliday, Jackson, Johnson, Kreider, Lewis, Mascari, McHenry, McQuillen, Miller, Oliver, Osili, Pfisterer, Ray, Robinson, Sandlin, Simpson  
0 NAYS:  
2 ABSENT: Freeman, Scales

Proposal No. 246, 2016 was retitled FISCAL ORDINANCE NO. 17, 2016, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 17, 2016

A FISCAL ORDINANCE amending the City-County Annual Budget for 2016 (City-County Fiscal Ordinance No. 36, 2015) by appropriating Five Hundred Ninety-Five Thousand Nine Hundred Thirty Five dollars (\$595,935) for purposes of the Marion Superior Court.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since its adoption, the City-County Annual Budget for 2016 is hereby amended by the increases and decreases hereinafter stated for purposes of the Marion Superior Court.

SECTION 2. The Marion Superior Court, additional appropriations in the State Grants Fund funded by a grant from the Indiana Department of Corrections to implement the Court Recidivism Reduction Program. The following changes to appropriations are hereby approved:

<u>FUND</u>	<u>CHAR 1</u>	<u>CHAR 2</u>	<u>CHAR 3</u>	<u>CHAR 4</u>	<u>TOTAL</u>
State Grants 21051	446,308	53,920	86,707	9,000	595,935

SECTION 3. Except to the extent of matching funds, if any, approved in this ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the controller are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 4. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

**SPECIAL ORDERS - FINAL ADOPTION**

PROPOSAL NO. 207, 2016. Councillor Osili reported that the Metropolitan and Economic Development Committee heard Proposal No. 207, 2016 on June 13 and July 11, 2016. The proposal, sponsored by Councillors Miller and Osili, restructures and renames the department of code enforcement and its divisions to improve efficiency and effectiveness. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended.

Councillor Miller applauded the re-branding and stated that the new Director Jason Larrison is doing an excellent job.

Councillor Sandlin said that he shares Councillor Freeman's concerns, who is not in attendance this evening, about the over-regulation by the Code Enforcement division. He said that his

concerns are much broader than the action of re-branding and they need to look at the function of this division more closely. He said that he is in favor of disbanding code enforcement altogether.

Councillor Osili moved, seconded by Councillor Miller, for adoption. Proposal No. 207, 2016 was adopted on the following roll call vote; viz:

*22 YEAS: Adamson, Clay, Coats, Cordi, Evans, Fanning, Gray, Holliday, Jackson, Johnson, Kreider, Lewis, Mascari, McHenry, McQuillen, Miller, Oliver, Osili, Pfisterer, Ray, Robinson, Simpson*  
*1 NAY: Sandlin*  
*2 ABSENT: Freeman, Scales*

Proposal No. 207, 2016 was retitled GENERAL ORDINANCE NO. 41, 2016, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 41, 2016

PROPOSAL FOR A GENERAL ORDINANCE to restructure and rename the department of code enforcement and its divisions to improve efficiency and effectiveness.

WHEREAS, IC 36-3-5-4 establishes the five departments of the city, while IC 36-3-4-23 provides the city with authority to transfer agency powers by creating or abolishing departments, divisions, offices or agencies and also allowing the city to transfer powers, duties, and functions between departments, divisions or agencies of the city; and

WHEREAS, in order to improve the quality of life in the city and county, to promote efficiency, and to remove unnecessary bureaucracy, the department of code enforcement is restructured; and

WHEREAS, in order to place the city on a service-minded approach to civil code regulation; licensing, permitting, inspection, enforcement, and abatement practices; and local government oversight of property use/safety and maintenance, business, event, professional, and construction industries; and promote and protect the health, safety and welfare of the people and pets; the department of code enforcement is renamed the department of business and neighborhood services; NOW, THEREFORE:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Title I, Chapter 226 of the "Revised Code of the Consolidated City and County" regarding the department of code enforcement, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 226-101. Department established.**

There hereby is created a department of ~~code enforcement~~ business and neighborhood services for the consolidated city as provided by IC 36-3-4-23.

**Sec. 226-102. Powers and duties.**

It shall be the responsibility of the department of ~~code enforcement~~ business and neighborhood services to effectively and strategically enforce those portions of this Code as provided in this chapter, for the purpose of improving the quality of life in the city and county

**Sec. 226-201. Director.**

The director of the department of ~~code enforcement~~ business and neighborhood services shall be appointed by the mayor, subject to the approval of the city-county council as required by IC 36-3-5-2, to serve at the pleasure of the mayor for a term ending December 31 of the year the appointment is effective and until a successor is appointed and qualified.



**Sec. 226-202. Duties of the director.**

(a) The director of the department of ~~code enforcement~~ business and neighborhood services shall:

- (1) Supervise and coordinate the activities of divisions within the department;
- (2) Oversee the daily operations of the department;
- (3) Prepare and submit the department's budget to the controller as required by IC 36-3-6-4;
- (4) Appoint a deputy director or administrator to manage each division subject to the approval of the mayor as provided in IC 36-3-5-5, and approve the appointment of bureau administrators as provided in Article III of this chapter;
- (5) Approve the hiring and dismissal of the personnel of the department subject to the limitations prescribed by law and rules adopted by the mayor as provided in IC 36-3-5-5(c);
- (6) Manage the personnel of the department;
- (7) Delegate to the personnel of the department authority to act on behalf of the director as provided in IC 36-3-5-5(c);
- (8) Execute contracts subject to the authority of the mayor and any other limitations prescribed by law;
- (9) Procure for the consolidated city a set of the weights and measures provided in IC 24-6-2-1; and
- (10) Exercise any other powers that may be granted by statute or ordinance or delegated by the mayor.

(b) The consolidated city of Indianapolis and Marion County through its department of business and neighborhood services shall be the successor in interest to all contracts executed by the consolidated city of Indianapolis and Marion County through its department of code enforcement.

(c) The consolidated city of Indianapolis and Marion County through its department of business and neighborhood services shall be the successor in interest to all contracts executed by the department of public safety on behalf of Indianapolis animal care and control.

**Sec. 226-203. Divisions and bureaus.**

The department of ~~code enforcement~~ business and neighborhood services shall be composed of the following divisions and bureaus, as provided in Article II, Article III, Article IV, ~~and~~ Article V, and Article VI of this chapter:

- ~~(1) The division of administration, logistics and permits, which shall be composed of:~~
    - ~~a. The bureau of administration and financial services;~~
    - ~~b. The bureau of logistical services; and~~
    - ~~c. The bureau of license and permit services; and~~
  - ~~(2) The division of inspections, which shall be composed of:~~
    - ~~a. The bureau of construction services;~~
    - ~~b. The bureau of environmental services; and~~
    - ~~c. The bureau of property safety and maintenance services.~~
  - ~~(3) The division of animal care and control, which includes:~~
    - ~~a. The animal care and control shelter; and~~
    - ~~b. The animal control advisory board.~~
- (1) The division of construction and business services, which shall be organized into bureaus and provide the following services:
    - a. construction and use permitting;
    - b. business licensing; and
    - c. construction inspections.

(2) The division of property and land use services, which shall be organized into bureaus and provide the following services:

- a. unsafe building program;
- b. environmental inspections;
- c. business and use inspections.

(3) The division of animal care services, which shall be organized into bureaus and provide the following services:

- a. animal shelter operations;
- b. animal control operations; and
- c. an animal services advisory board.

(4) The division of administrative and financial operations, which shall provide the following services:

- a. administration services;
- b. financial services; and
- c. logistical services.

**Sec. 226-204. Board of ~~code enforcement~~ business and neighborhood services.**

(a) Established. There hereby is established a board of ~~code enforcement~~ business and neighborhood services pursuant to IC 36-3-4-23.

(b) Members. The board shall be composed of five (5) members: the department director, who serves as presiding officer of the board; two (2) members appointed by the mayor; and two (2) members appointed by the city-county council. Each appointed member shall serve a one-year term and until his or her successor is appointed and qualified, but serves at the pleasure of the appointing authority. In the event of a vacancy prior to the expiration of a term, the appointing authority shall appoint a member for the remainder of the unexpired term.

(c) Meetings. The board shall hold regular meetings at least once a month, at times and places prescribed by its rules or established by resolution. No notice to members is required for holding or taking any action at a regular meeting. A special meeting of the board may be called by the presiding officer or by two-fifths (2/5) of the members, at any place in the county designated in the call. Each member shall be notified of the time and place of such a meeting by written notice that must be delivered, mailed or sent by other expedient means so that each member has at least seventy-two (72) hours' notice of the meeting. The notice requirements may be waived as to a member if he or she attends the meeting or executes a written waiver of notice. The waiver may be executed either before or after the meeting, but if executed after, it must state in general terms the purpose of the meeting.

(d) Board action. A majority of all the members of the board constitutes a quorum. A majority vote of all the board members is required to pass a resolution.

(e) Powers. The board of ~~code enforcement~~ business and neighborhood services shall have the following powers:

- (1) To review all budgets prepared by the department and recommend to the city-county council any revisions the board feels desirable;
- (2) To hold any hearings to be held following public notice and make findings and determinations required by applicable law;
- (3) To approve the award and amendment of contracts let by the department for the purchase or lease of capital equipment or other property where the contract is required to be bid under IC 5-22;
- (4) To approve the award and amendment of public construction contracts let by the department that are required to be bid under IC 36-1-12;

- (5) To approve the acquisition of and leases for real estate by the department;
- (6) To approve the employment of persons engaged by the department by contract to render professional or consulting services;
- (7) To establish fees for licenses and permits issued by, and for inspections conducted by, the department, as provided by the city-county council;
- (8) To review decisions of the license administrator or other official as provided in section 801-432 of the Code; and
- (9) To exercise any other powers granted to the board of ~~code enforcement~~ business and neighborhood services by ordinance or by the mayor.

**Sec. 226-301. Division established; powers and duties.**

The division of ~~administration, logistics, licenses and permits~~ construction and business services hereby is established within the department of ~~code enforcement~~ business and neighborhood services. The division shall be managed by a deputy director who is appointed by and serves at the pleasure of the director. The division shall be composed of the bureaus ~~established in this article~~ that are managed by administrators who are appointed by, and serve at the pleasure of, the deputy director of the division, subject to the approval of the director, and shall have the powers and duties assigned to such bureaus as well as other powers and duties granted by statute or ordinance or delegated by the mayor.

**~~Sec. 226-302. Bureau of administration and financial services.~~**

- (a) ~~The bureau of administration and financial services hereby is established within the division of administration, logistics, licenses and permits. The bureau shall be managed by an administrator who is appointed by and serves at the pleasure of the deputy director of the division, subject to the approval of the director.~~
- (b) ~~The bureau of administration and financial services shall have the powers and duties to:~~
  - (1) ~~Provide administrative support for the department;~~
  - (2) ~~Provide various financial services including annual budget preparation, annual audit coordination, payroll services, and other accounting and operational support for the department; and~~
  - (3) ~~Exercise such other powers and duties granted by statute or ordinance or delegated by the mayor or department director.~~

**Sec. 226-303 ~~Bureau of license and permit services~~ Bureaus established.**

(a) ~~The division will be organized into bureaus of license and permit services hereby is established within the division of administration, logistics, licenses and permits established by the director.~~ The bureaus shall be managed by ~~an administrator, known as the license administrator, who is~~ are appointed by and serves at the pleasure of the deputy director of the division, subject to the approval of the director.

(b) ~~The bureaus of license and permit services within the division shall have the powers and duties that it is they~~ are authorized or required to exercise under this Code, including but not limited to those powers and duties with respect to the issuance of licenses, registrations, and permits, and the inspection of building construction, as required by statute or ordinance, or as assigned by the mayor, including but not limited to the following provisions of the Code: ~~as provided in the following provisions of the Code:~~

- (1) Chapter 391, regarding nuisances;
- (2) Chapter 536, regarding buildings and construction;
- (3) Chapter 561, regarding drainage and sediment control;
- (4) Chapter 591, regarding fire prevention and protection;
- (5) Chapter 611, regarding motor vehicles;
- (6) Chapter 645, regarding public rights-of-way;

- (7) Chapter 701, regarding trees and flora;
- (8) Chapter ~~730~~740, Article VIII, regarding improvement location permits; and,
- (9) Title IV, regarding business and commercial regulations and licenses.

(c) Within the division, the director of business and neighborhood services shall designate a bureau administrator or another bureau employee to be the city inspector of weights and measures as provided in IC 24-6-3-4, and subject to the council's powers as provided in IC 36-3-4-23, for the purpose of requiring and securing of dealers and other persons accurate and honest weights and measures and so to serve the public welfare. The inspector of weights and measures and other employees of the bureau who make inspections with respect to weights and measures shall:

- (1) Have special police powers as provided in Chapter 279 of the Code;
- (2) At all times carry and present to any person, upon demand, a card inscribed with his or her name and official capacity, and upon such showing of his or her official authority he or she shall be permitted, at all reasonable times and hours, to enter any premises for the performance of his or her duties; and
- (3) Have the powers and duties to inspect and test, to the same extent and in all matters as now prescribed by statute, all articles whatsoever sold by weight or measure in the city.

**Sec. 226-304. Bureau of logistical services.**

- ~~(a) The bureau of logistical services hereby is established within the division of administration, logistics, licenses and permits. The bureau shall be managed by an administrator who is appointed by and serves at the pleasure of the deputy director of the division, subject to the approval of the director.~~
- ~~(b) The bureau of logistical services shall have the powers and duties to:~~
  - ~~(1) Provide logistical support to the department;~~
  - ~~(2) Provide various facilities, fleet, technologies, contract/vendor, information systems analyses, document management and archiving, and general operations support to the department; and~~
  - ~~(3) Exercise such other powers and duties granted by statute or ordinance or delegated by the mayor or the department director.~~

**Sec. 226-401. Division established; powers and duties.**

The division of ~~inspections~~ property and land use services hereby is established within the department of ~~code enforcement~~ business and neighborhood services. The division shall be managed by a deputy director who is appointed by and serves at the pleasure of the director. The division shall be composed of the bureaus established in this article, and shall have the powers and duties assigned to such bureaus as well as other powers and duties granted by statute or ordinance or delegated by the mayor.

**Sec. 226-402. Bureau of Construction Services Bureaus established.**

- ~~(a) The bureau of construction services hereby is established within the division of inspections. The bureau shall be managed by an administrator who is appointed by and serves at the pleasure of the deputy director of the division, subject to the approval of the director.~~
- ~~(b) The bureau of construction services shall have the powers and duties to make inspections of public ways, infrastructure, and premises where a person is engaged or suspected to be engaged in construction activity, and to take other appropriate actions for the purpose of securing safe construction and ensuring proper safety and maintenance of existing structures and infrastructure.~~

(a) The division will be organized into bureaus by the director. The bureaus shall be managed by administrators who are appointed by and serve at the pleasure of the deputy director of the division, subject to the approval of the director.

(b) The bureaus within the division shall have the powers and duties that it is authorized or required to exercise under this Code, including but not limited to those powers and duties with respect to the protection of the environment and ecology, and the inspection of building construction as required by statute or ordinance, or as assigned by the mayor, including but not limited to the following provisions of the Code:

- (1) Chapter 361, regarding litter;
- (2) Chapter 391, regarding nuisances;
- (3) Chapter 431, regarding streets, sidewalks and public ways;
- (4) Chapter 511, regarding air pollution;
- (5) Chapter 575, regarding environmental public nuisances;
- (6) Chapter 601, regarding garbage, trash and refuse;
- (7) Chapter 672, regarding general discharge prohibitions and private wastewater disposal systems;
- (8) Chapter 706, regarding water conservation;
- (9) Chapter 955, regarding waste, rubbish and trash hauling.
- (10) The powers and duties conferred on the enforcement authority by IC 36-7-9;
- (11) Chapter 536 of the Code, regarding buildings and construction;
- (12) Chapter 537 of the Code, regarding vacant building standards;
- (13) Chapters 740 through 744 of the Code, inclusive, regarding zoning; and
- (14) Chapter 953 of the Code, regarding residential rental premises.

The bureau shall have the further power, as provided in Chapter 537 of the Code or other statutes or ordinances, to conduct, or to contract with an enforcement entity to conduct, a program to issue orders to repair, board or demolish hazardous, unsafe or problem structures that contribute to urban blight.

**Sec. 226-403. Bureau of environmental services.**

- ~~(a) The bureau of environmental services hereby is established within the division of inspections. The bureau shall be managed by an administrator who is appointed by and serves at the pleasure of the deputy director of the division, subject to the approval of the director.~~
- ~~(b) The bureau of environmental services shall have the powers and duties to make inspections and otherwise enforce provisions of statutes or ordinances relating to the protection of the environment and ecology as required by statute or ordinance, or as assigned by the mayor, including but not limited to the following provisions of the Code:
  - ~~(1) Chapter 361, regarding litter;~~
  - ~~(2) Chapter 391, regarding nuisances;~~
  - ~~(3) Chapter 431, regarding streets, sidewalks and public ways;~~
  - ~~(4) Chapter 511, regarding air pollution;~~
  - ~~(5) Chapter 575, regarding environmental public nuisances;~~
  - ~~(6) Chapter 601, regarding garbage, trash and refuse;~~
  - ~~(7) Chapter 671, Articles I, III and VI, regarding sewers and sewage disposal;~~
  - ~~(8) Chapter 672, regarding general discharge prohibitions and private wastewater disposal systems;~~
  - ~~(9) Chapter 706, regarding water conservation; and~~
  - ~~(10) Chapter 955, regarding waste, rubbish and trash hauling.~~~~
- ~~(c) Within the bureau of environmental services, the director of code enforcement shall designate the bureau administrator or another bureau employee to be the city inspector of weights and measures as provided in IC 24-6-3-4, and subject to the council's powers as provided in IC 36-3-4-23, for the purpose of requiring and securing of dealers and other persons accurate and honest weights and measures and so to serve the public welfare. The inspector of weights and measures and other employees of the bureau who make inspections with respect to weights and measures shall:
  - ~~(1) Have special police powers as provided in Chapter 251, Article VII of the Code;~~
  - ~~(2) At all times carry and present to any person, upon demand, a card inscribed with his or her name and official capacity, and upon such showing of his or her official authority he or she shall be permitted, at all reasonable times and hours, to enter any premises for the performance of his or her duties; and~~~~

- ~~(3) Have the powers and duties to inspect and test, to the same extent and in all matters as now prescribed by statute, all articles whatsoever sold by weight or measure in the city.~~
- ~~(a) As used in this article, IEMS means the Indianapolis Emergency Medical Services Division.~~
- ~~(b) The IEMS shall be responsible for providing transport emergency medical services pursuant to IC 36-3-1-6.2 throughout the fire special service district as defined in section 111-3 of this Code, and in those areas in which the Indianapolis Fire Department has contracted to provide transport emergency medical services.~~

**Sec. 226-404. Bureau of property safety and maintenance services.**

- ~~(a) The bureau of property safety and maintenance services hereby is established within the division of inspections. The bureau shall be managed by an administrator who is appointed by and serves at the pleasure of the deputy director of the division, subject to the approval of the director.~~
- ~~(b) The bureau of property safety and maintenance services shall have the powers and duties to make inspections and otherwise enforce provisions of statutes or ordinances relating to the development, condition, maintenance, or use of real estate, as required by statute or ordinance, or as assigned by the mayor, including but not limited to the following:
  - ~~(1) The powers and duties conferred on the enforcement authority by IC 36-7-9;~~
  - ~~(2) Chapter 536 of the Code, regarding buildings and construction;~~
  - ~~(3) Chapter 537 of the Code, regarding vacant building standards;~~
  - ~~(4) Chapters 730 through 735 of the Code, inclusive, regarding zoning; and~~
  - ~~(5) Chapter 953 of the Code, regarding residential rental premises.~~~~

~~The bureau shall have the further power, as provided in Chapter 537 of the Code or other statutes or ordinances, to conduct, or to contract with an enforcement entity to conduct, a program to issue orders to repair, board or demolish hazardous, unsafe or problem structures that contribute to urban blight.~~

**Sec. 226-511. Division established; powers and duties.**

(a) The division of animal care ~~and control~~ services is established within the department of ~~code enforcement, business and neighborhood services~~. The division shall be managed by a deputy director who is appointed by and serves at the pleasure of the director, in consultation with the mayor.

(b) The division shall have the powers and duties to operate the city's animal shelter and to enforce provisions of statutes and ordinances relating to the care, treatment and control of animals, or as may be assigned by the mayor, including but not limited to enforcement of Chapter 531, regarding Animals.

**Sec. 226-512. Shelter operations; purpose and responsibilities.**

The animal care ~~and control~~ services division shall operate or contract for the operation of the facility located at 2600 South Harding Street which shall be known as the "animal care ~~and control~~ services shelter."

(a) The animal care ~~and control~~ services shelter is to accept every Marion County resident's animal brought to it. The animal care ~~and control~~ services shelter shall determine the county of residence for the owner of each animal brought to it. All non-Marion County residents shall be assessed a surrender fee of forty dollars (\$40.00) per animal drop off. The shelter may refuse to accept non-Marion County residents' animals if the fee is not paid. The division shall use the income from the non-resident fee to promote spay and neuter programs.

(b) The division shall maintain a clean, comfortable, safe and healthy environment for the animals at the shelter.

(c) The division shall adopt, subject to the approval of the animal ~~care and control~~ services advisory board, written standards and written standard operating procedures to ensure that the shelter is as clean, comfortable, safe and as healthy an environment as is reasonably possible.

(d) The shelter shall be open for redemption and adoption of animals a minimum of six (6) partial or whole days a week, including one (1) full weekend day.

(e) The shelter shall be open to the public until at least 7:00 p.m. a minimum of one (1) week night each week.

(f) The shelter shall make arrangements to receive and assist sick or injured animals twenty-four (24) hours a day.

(g) The shelter shall coordinate with enforcement officers to make arrangements for emergency pickup service for animals.

(h) The shelter shall contract or arrange for licensed regular veterinary care and for the appropriate veterinary medical supplies for the animals at the facility, which veterinary care shall include, but not be limited to: treatment of sick and injured animals, care for newborn or young animals, administration of preventative vaccines and worming.

(i) The shelter shall provide adequate and nutritional food appropriate to the species and circumstances of the individual animal. Animals will be fed in appropriate containers.

(j) The shelter shall assure that the kennels and/or cages in which the animals stay at the shelter are cleaned and disinfected regularly and in no case less than once every twenty-four (24) hours. Animals shall be humanely moved from their individual kennel to a clean area while the cleaning and disinfecting are being performed.

(k) Incoming animals shall be received in an area separate from the rest of the shelter population and shall be immediately examined for injury. They shall remain separated from the rest of the shelter population until they have been evaluated for health and temperament. Incoming animals whose vaccination history is unknown shall be vaccinated before being moved into the shelter population.

(l) Cages and kennels shall be in good condition, free of sharp or broken edges, covered drains, supplied with clean, fresh bedding daily. Every animal shall be kept in an appropriate enclosure so as to remain clean, dry, comfortable and free of disease.

(m) Animals in the shelter shall be separated as follows:

- (1) Incoming animals from the shelter population for triage and observation period;
- (2) Sick and injured animals from healthy animals so as to receive appropriate care, including off-site facility care if needed;
- (3) Puppies, kittens and nursing mothers with offspring from all other adult animals;
- (4) Further divisions as needed to accommodate temperament and behavior including, but not limited to, females in heat and overly aggressive animals; and
- (5) Dogs from cats.

**Sec. 226-521. Animal ~~care and control~~ services advisory board established.**

The animal ~~care and control~~ services advisory board is hereby established to help identify the problems and needs of animal care and control in the city, to suggest answers and to recommend solutions to these needs and problems, and to educate the public regarding the care and ownership of animals.

**Sec. 226-522. Board membership.**

(a) The animal ~~care and control~~ services advisory board shall be composed of five (5) voting members who are residents of the city and have an interest in and knowledge of care and control of animals, and who are chosen as follows:

- (1) A veterinarian licensed by the State of Indiana and actively engaged, if possible, in private practice in Marion County, who shall be appointed by the mayor;
- (2) A representative from the Health and Hospital Corporation of Marion County board of public health, who shall be appointed by the council;
- (3) A representative from the Humane Society of Indianapolis, who shall be appointed by the mayor;
- (4) Two (2) members from the community, one (1) of whom shall be appointed by the council, and one (1) of whom shall be appointed by the mayor.

In addition to the five (5) voting members, the deputy director of the animal care ~~and control~~ services division shall be an ex officio, non-voting member of the board.

(b) Each board member shall serve at the pleasure of the appointing authority for a term ending December thirty-first following appointment and until a successor is appointed. A member may be reappointed for successive terms.

(c) If any board member dies, resigns, vacates office or is removed from office, a new member shall be appointed to fill the vacancy in the same manner as the member in respect to whom the vacancy occurs was appointed.

(d) Any board member who fails to attend three (3) consecutive regular meetings of the board shall be treated as if he had resigned, unless sufficient written justification is submitted to and approved by the appointing authority. The deputy director shall inform the appointing authority in writing of any board member of such board member's failure to attend three (3) consecutive regular meetings.

(e) An appointing authority shall not make all of its appointments from the same political party.

**Sec. 226-523. Officers, quorum, meetings.**

(a) The voting members of the board shall select a chairman and a vice-chairman. A recording secretary who shall keep the official minutes of the meetings, reserve meeting room space, handle all of the communications, including but not limited to meeting notices, will be supplied by the department of ~~code enforcement~~ business and neighborhood services. All official action of the animal ~~care and control~~ services advisory board shall be in writing and be executed by the board upon being authorized by motion passed by the animal ~~care and control~~ services advisory board by simple majority of its members present.

(b) A quorum of the board for official action in session shall be three (3) of the five (5) voting members. Official minutes of meetings shall be kept by the secretary.

(c) The board shall meet at least every month, or on special call of the chair, or upon the written request of any three (3) members with every other meeting being held at the shelter facility located at 2600 South Harding Street in the city.

**Sec. 226-524. General powers and duties.**

It shall be the responsibility of the board to insure that activities of animal care ~~and control~~ services are meeting its mission statement, to help identify the problems and needs of animal care and control in Marion County, to suggest answers and to recommend solutions to these needs and problems, and to educate the public regarding the proper care and responsible ownership of animals, and to make reasonable efforts to ensure that sufficient funds are appropriated for the proper and necessary equipment and personnel, and upgrades thereof, proper and efficient performance of the services, and work required of the division consistent with the board's policies and procedures.

**Sec. 226-525. Specific powers, duties and responsibilities.**

The board shall also be charged with the following specific duties and responsibilities:

- (1) To adopt, and if necessary, review and amend rules and regulations for the efficient implementation of its policies and procedures, as well as to ensure that the goals identified in the mission statement of animal care ~~and control~~ services are fulfilled;
- (2) To allow any person who feels aggrieved at a decision of a public entity concerning animals, or who wishes to express a concern involving animals, to file a written request for consideration of such grievance or concern with the chairman of the animal ~~care and control~~ services advisory board, who shall place such request on the agenda of a meeting of the animal ~~care and control~~ services advisory board. At the meeting, the animal ~~care and control~~ services advisory board shall hear the request and take appropriate action;
- (3) To make recommendations to the deputy director and/or the council regarding establishing standards for the care, disposition, treatment and control of all animals within Marion County including, but not limited to, increasing the adoption of animals and establishing criteria for the adoption of animals, establishing education and community outreach programs for the animal care ~~and control~~ services division,



- establishing and enhancing a county-wide, "one number to call" lost and found service for pet owners, establishing and administering a not-for-profit fund for which charitable donations can be made by citizens on behalf of animal care ~~and control services~~, establishing certification and/or educational requirements for employees of animal care ~~and control services~~, and encouraging responsible pet ownership, including the spaying and neutering of pet dogs and cats;
- (4) To draft and adopt the mission statement for the animal care ~~and control services~~ division;
  - (5) To receive and review monthly reports from the administrator concerning:
    - a. The numbers of investigations conducted by animal care and control officers, the circumstances involved, the status of such investigations;
    - b. The numbers of animals taken into the shelter, the reasons therefor, the dispositions of such animals (i.e., retrieved by owners, adopted, euthanized, etc.);
    - c. The status of programs designed to implement the mission statement of the animal care ~~and control services~~ division;
    - d. Fiscal operation and budgetary needs; and
    - e. Such other information as the animal ~~care and control services~~ advisory board shall from time to time request; and
  - (6) To submit to the council, the mayor and the director annual reports of its activities and operations.

**Sec. 226-601. Division of Administrative and Financial Operations**

(a) The division of administrative and financial operations hereby is established within the department of business and neighborhood services. The division shall be managed by a chief financial officer who is appointed by and serves at the pleasure of the director.

(b) The division shall have the powers and duties to:

- (1) Provide administrative support for the department;
- (2) Provide various financial services including annual budget preparation, annual audit coordination, payroll services, and other accounting and operational support for the department;
- (3) Exercise such other powers and duties granted by statute or ordinance or delegated by the mayor or department director;
- (4) Provide logistical support to the department;
- (5) Provide various facilities, fleet technologies, contract/vendor, information systems analyses, document management and archiving, and general operations support to the department; and

SECTION 2. The below specified Sections of the "Revised Code of the Consolidated City and County" referencing the department of code enforcement and its divisions, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 531-101. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

*Animal* means any living, nonhuman vertebrate creature.

*Animal care ~~and control services~~ division* means the animal care ~~and control services~~ division of the ~~department of public safety~~ department of business and neighborhood services.

*Animal care ~~and control services~~ shelter* means the shelter described in section ~~251-321~~ 226-512 of this Code.

*At large* means being loose and free roaming, not being on a leash and under the control of a competent person, or any portion of the animal's body not being confined within a pen, corral, yard, cage, house, vehicle, or other secure enclosure or structure or by other means that prevents escape.

*Board* means the board of ~~code enforcement~~ business and neighborhood services of the department of ~~code enforcement~~ business and neighborhood services.

*Community cat* means an unowned cat that has been captured, evaluated, ear tipped, sterilized and vaccinated against rabies by a licensed veterinarian and released in accordance with section 531-209 of this Code.

*Community cat caretaker* means a person that provides food, water or outdoor areas of shelter to a community cat and who is not otherwise prohibited from owning or keeping animals.

*Crime prevention dog* means and includes a dog that is trained and used by its owner or keeper primarily for the protection of persons or property, or both.

*Dangerous animal* means any animal that:

- (1) Would constitute a danger to human life or property if it were not kept in the manner required by this chapter;
- (2) Has caused serious injury to a person without having been provoked by that person;
- (3) At a place other than its owner's or keepers property has:
  - a. Chased or approached a person in a menacing fashion or apparent attitude of attack; or
  - b. Attacked another domestic animal; or
- (4) Because of its training or behavior, is capable of inflicting physical harm or death to humans.

*Dog* means and includes animals of the *Canis familiaris* species, and hybrids of a *Canis familiaris* and any other member of the *Canis* genus, including wolves.

*Domestic animals* means rabbits, cattle, horses, ponies, mules, donkeys, jackasses, llamas, swine, sheep, goats, dogs, cats and poultry.

*Exposed to rabies* means an animal has been exposed to rabies if it has been bitten by or been in contact with any animal known or reasonably suspected to have been infected with rabies.

*Free-roaming cat* means a cat that is at large that does not possess an identification tag or microchip as required by section 501-202 of this Code nor has been ear tipped to indicate it is a community cat.

*Kennel* means a facility operated commercially and principally for the purpose of boarding, housing, grooming, breeding or training dogs or cats, or both. For purposes of this chapter, kennel shall not include a facility in or adjoining a private residence where dogs or cats are kept for the hobby of the owner, lessee or other occupant of the property using the animals for hunting, practice tracking, exhibiting in shows or field or obedience trials or for the guarding or protecting of the property, and an occasional sale of pups or kittens by the owner, lessee or other occupant of the property shall not make such property a kennel for the purposes of this chapter.

*Law enforcement animal* means an animal that is owned or used by a law enforcement agency for the purpose of aiding in the detection of criminal activity, enforcement of laws, the apprehension of offenders and ensuring the public welfare.

*Monitored* means that the animal:

- (1) Is controlled by means of a leash or other device held by a competent person, subject to the provisions of sections 531-401 and 531-728, which animal is sufficiently near the owner or handler as to be under his or her direct control and is obedient to that person's command;
- (2) Is on or within a vehicle being driven or parked; or
- (3) Is confined as required by this chapter.

*Nonbite exposure* means and includes scratches, abrasions, open wounds or mucous membranes contaminated with saliva or other potentially infectious material from a rabid animal.

*Own* means to keep, harbor or have custody, charge or control of an animal, and owner means any person who owns an animal; however:

- (1) veterinarians and operators of kennels, pet shops and stables, as those terms are defined in Chapter 836 of this Code, who temporarily keep animals owned by, or held for sale to other persons shall not be deemed to own or be owners, but rather to be keepers of such animals.
- (2) a community cat caretaker shall not be deemed to own or keep a community cat but rather to provide limited oversight of such animals.

*Person* means and includes any individual, corporation, partnership or other association or organization, but shall exclude the following for purposes of section 531-401:

- (1) Police officers, federal or state armed forces, park rangers, game wardens, conservation officers and other such governmental agencies, with respect to actions that constitute a discharge of their official duties; and
- (2) An individual, partnership, corporation or other association, organization, or institution of higher education, that is registered as a research facility with the United States Secretary of Agriculture under 7 USC § 2131 et seq., commonly known as the "Animal Welfare Act," while engaged in the course of their performance as such.

*Provoke* means the infliction of bodily harm on the animal or another person, or conduct that constitutes a substantial step toward the infliction of bodily harm on the animal or another person.

~~*Public safety board* means the board of public safety of the department of public safety.~~

*Serious injury* means any injury that results in permanent disfigurement, unconsciousness, extreme pain, or permanent or protracted loss or impairment of the function of a bodily member or organ- and includes, in regard to an animal, an injury requiring euthanasia.

*Quarantining authority* means the ~~department of public safety~~ department of business and neighborhood services, its contractors, agents, employees and designees, acting under directives and regulations of the Health and Hospital Corporation of Marion County or the state board of animal health.

*Shelter* means the animal care and control facility located at 2600 South Harding Street in the city.

*Veterinarian* means a person licensed to practice veterinary medicine in the state.

*Wild animal* means and includes:

- (1) A Class III wild animal for which a state permit is required under 310 IAC 3.1-11-8 and/or IC 14-22-26; and
- (2) A venomous snake, poisonous amphibian, or other large reptile.

#### **Sec. 531-106. Report of vehicular collision with domestic animal.**

A person whose vehicle causes injury or death to a domestic animal in the city shall stop at once, assess the extent of the injury to the extent that it is safe to do so, and immediately notify the animal's owner, if known, or the animal care ~~and control~~ services shelter, either directly or through a local law enforcement agency, together with a description of the animal struck, the location of the striking and an estimate as to the condition of the animal after being struck, along with the rabies tag number of the animal, if it can safely be ascertained. Such person shall not be required to report his or her name, as the only purpose of this requirement is to aid the stricken animal and notify its owner, if any.

#### **Sec. 531-202. Permanent identification of dogs and cats required.**

(a) A person who owns a dog or cat in the consolidated city and county shall ensure that each dog or cat owned by that person bears a permanent means of identification at all times, such that the animal's owner can be ascertained accurately, quickly, and easily.

(b) The means of identification required by this section shall be in addition to any tags required to be worn by dogs or cats by state law or other provision of this Code, and shall be either by means of:

- (1) A microchip implanted in the dog or cat or animal that bears a registered identification number, and that can be read by a standard microchip scanner; or
- (2) A permanent tag attached to a durable collar worn at all times by the dog or cat, and bearing the owner's current name, address and telephone number.

(c) Each veterinarian or other person in the consolidated city and county who implants microchips as contemplated in this section shall make available upon request to the animal care ~~and control~~ services division the names, addresses, and phone numbers of the owners of the dogs and cats, and the corresponding microchip identification numbers. Such records shall be available to animal care ~~and control~~ services division without court order.

(d) It shall be unlawful for a person to own a dog or cat three (3) months of age or older that is kept in the city, and that does not bear a permanent means of identification as provided in this section. A violation of this section shall be subject to an admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103 of this Code.

**Sec. 531-205. Unlawful care for a free-roaming cat.**

It shall be unlawful for a person to provide food, water or shelter to a free-roaming cat for a period of more than sixty (60) days unless in compliance with sections 531-209 and 531-210 of this Code. Animal ~~Care and Control~~ services ~~D~~division may impound community cats in violation of this chapter and dispose of the cats in accordance with section 531-731.

**Sec. 531-208. Lost or stray domestic animals.**

(a) Persons finding a stray animal are to notify the animal care ~~and control~~ services division within forty-eight (48) hours. At the discretion of the division, the animal may be kept by the finder and a found report left with the division, to enable the finder an opportunity to return the animal to its rightful owner.

(b) Upon demand, by the animal care ~~and control~~ services division, any found animal will be taken to an appropriate facility and scanned for an identifying microchip.

(c) Persons finding an animal are obligated to comply with all the rules and regulations of this chapter pertaining to humane care and treatment of animals, while said animal is in their custody awaiting return to its actual owner.

(d) With the exception of the Humane Society of Indianapolis or other humane and/or breed rescue organizations recognized by the animal care ~~and control~~ services division, the finder will be considered the found animal's owner for purposes of this chapter only after the animal is in the finder's custody for thirty (30) continuous days.

**Sec. 531-209. Community cat program.**

(a) A community cat program is established in order to encourage the stabilization of the free-roaming cat population in the city by utilizing a trap, neuter, and return methodology.

(b) A person may trap any free-roaming cat in a humane manner, utilizing a live release trap that does not injure the animal, and in accordance with the requirements of 531-407 in order to have the free-roaming cat evaluated, surgically sterilized, ear-tipped, and vaccinated against rabies by a licensed veterinarian; and released to the vicinity from where it was trapped or released to a community cat caretaker.

(c) A ~~C~~community ~~C~~cat, impounded by the ~~A~~animal ~~C~~care ~~and Control~~ services ~~D~~division, shall be returned to the vicinity from where it was trapped unless the circumstances present a detriment to the cat or to the public health or welfare.

**Sec. 531-210. Community cat caretaker responsibilities.**

(a) A community cat caretaker shall abide by standard guidelines devised by the animal care ~~and control services~~ division regarding the provision of food, water, shelter and veterinary care for a community cat as well as comply with section 531-209 of this Code.

(b) Community cat caretakers shall take a seriously ill or injured community cat to the ~~Animal Care and Control services~~ shelter or seek licensed veterinarian care for the community cat.

(c) A person who violates any provision of this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for the first such violation shall not be less than twenty-five dollars (\$25.00).

**Sec. 531-301. Rabies vaccinations required for certain animals.**

(a) It shall be unlawful to keep a dog, cat, or ferret or to provide food, water or shelter to a cat over the age of three (3) months in the city unless each dog, cat, or ferret is immunized against rabies by a vaccination performed by a veterinarian in accordance with 345 IAC 1-5-2. Community ~~Cat~~ Caretakers are not required to renew the immunization of ~~Ccommunity~~ Ccats.

(b) A person's first violation of this section shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103. A person's second and subsequent violations shall be subject to the enforcement procedures and penalties provided in section 103-3 of this Code.

**Sec. 531-303. Precautionary measures, and individual animal quarantine.**

A captured animal known to have bitten or otherwise exposed a person to the possibility of contracting rabies through nonbite exposure in the city shall be humanely quarantined for a period of not less than ten (10) days. In the sole discretion of the quarantining authority, the quarantine may be on the premises of the owner, at the city animal care ~~and control services~~ shelter or those of its contractors, if any, or at the owner's expense in a kennel or veterinary hospital.

**Sec. 531-305. Finding of rabies; general quarantine.**

(a) When an animal quarantined in the city has been found rabid or is suspected of being rabid by a veterinarian and dies while under observation, the quarantining authority shall take such action as is specified in such cases by the state board of animal health and shall notify the proper public health officials of reports of human contacts made by, and the diagnosis made of, the animal.

(b) When a rabies report is made under subsection (a) of this section, the quarantining authority shall recommend to the director of the department of ~~code enforcement~~ business and neighborhood services a general quarantine in the city for a period of thirty (30) days. Upon invocation of the general quarantine by the director, any animal found at large in the city may be destroyed without being impounded. During the quarantine period, every animal bitten or exposed through nonbite exposure by an animal adjudged to be rabid shall be confined, at its owner's expense, or destroyed as specified by the state board of animal health.

(c) During a general quarantine declared by the director under this section, an animal's owner or keeper who resists the quarantining authority acting under this chapter, or who permits an animal owned or kept by that person to be at large in the city, shall be punishable by a fine not to exceed five hundred dollars (\$500.00), and any animal which is suspected of being rabid or is in violation of the general quarantine shall be impounded.

**Sec. 531-401. General requirements for animal care and treatment.**

(a) Every owner or keeper of an animal kept in the consolidated city and county shall see that such animal:

(1) Is kept in a clean, sanitary and healthy manner and is not confined so as to be forced to stand, sit or lie in its own excrement; the person(s) responsible for animal(s) shall regularly and as often as necessary to prevent odor or health and sanitation problems, maintain all animal areas or areas of animal contact;

(2) Has food that is appropriate for the species in adequate amounts to maintain good health, fresh potable drinking water where appropriate, shelter and ventilation, including quarters that are protected from excessive heat and cold and are of sufficient size to permit the animal to exercise and move about freely;

- (3) Is protected against abuse, cruelty, neglect, torment, overload, overwork, or any other mistreatment;
  - (4) Shall provide the reasonably necessary medical care according to commonly accepted veterinary standards, in addition to the required rabies vaccination which shall include recommended vaccinations as required by accepted veterinary standards, and if diseased or injured, or exhibiting symptoms of disease, receives proper care and is segregated from other animals so as to prevent transmittal of the disease; and
  - (5) Is maintained in compliance with all applicable federal, state and local laws and all regulations respecting animal care and control as are adopted by the department of ~~code enforcement~~ business and neighborhood services and in effect from time to time.
- (b) It shall be unlawful for a person to beat, starve or otherwise mistreat any animal in the city, or to fail to comply with any requirement of subsection (a) of this section.
- (c) It shall be unlawful to tether any animal by use of a choke collar, or on any collar too small for the size and age of the animal, or by any rope, chain, or cord directly attached to the animal's neck, or by a leash less than twelve (12) feet in length, or by any tether or leash without swivels on both ends, or of such unreasonable weight as to prevent the animal from moving about freely;
- (d) It shall be unlawful for any animal to be tethered between the hours of 11:00 p.m. and 6:00 a.m.; or to tether any un-sterilized dog for any period of time unless the dog is in visual range of a competent adult who is outside with the dog; or to tether or confine an animal at a vacant structure or premises for any purpose or time when it is not monitored by a competent adult who is present at the property for the duration of such tethering or confinement.
- (e) In addition to the general requirements for animal care and treatment in this article, every owner or keeper of a dog kept in the consolidated city and county shall see that such dog when confined outside:
- (1) Has access to a shelter constructed of solid wood or other weather resistant material, consisting of a structure with solid walls on all sides, a dry floor raised above the ground, and a solid roof sloped away from the entrance to protect the dog from weather and extreme cold. During winter and any day when the temperature is at or below 40°F, the shelter must be just large enough for the dog to stand up and turn around, the entrance covered by a flexible wind-proofing material or self-closing door, and must contain clean, dry bedding, which must consist of an insulating material that does not retain moisture, such as straw, of sufficient depth for the dog to burrow. On any day when the temperature is at or above 80°F, the shelter must be shaded by trees, a tarp, or a tarp-like device.
  - (2) Must be brought into a temperature controlled facility when the temperature is at or below 20°F or at or above 90°F, or when a heat advisory, wind chill warning, or tornado warning has been issued by local, state, or national authority, except when the dog in visual range of a competent adult who is outside with the dog.
  - (3) Has adequate space for exercise when confined in an enclosure or pen, which shall consist of no less than one hundred (100) square feet. A dog over eighty (80) pounds must be provided with an additional fifty (50) square feet. For each additional dog inside the enclosure, fifty square feet of space for exercise must be added per dog.
  - (4) Is treated so that there are no open lesions on the dog's skin due to insect bites or other parasitic infections.
  - (5) Shall not be tethered except when all of the following conditions are met:
    - (i) The tether is not attached to a motorized vehicle, such as an automobile, truck, or motorcycle;
    - (ii) The dog is at least six (6) months of age and is not sick or injured;
    - (iii) The tethered dog has access to water, shelter, and dry ground. If there are multiple tethered dogs, each dog must be tethered separately in a manner that prevents the tethers from becoming entangled with each other or any other object, and each dog must have separate water and shelter;
    - (iv) The tether is attached to the dog by a properly fitting buckle-type collar, or a collar that will not break under pressure, with a rotating toggle or attachment. Pinch, prong, or choke collars shall not be used. The tether shall not wrap directly around the dog's neck;

- (v) The tether is not of such unreasonable weight as to prevent the dog from moving about freely, is free of tangles, cannot be entangled with another animal or object, and is at least twelve (12) feet in length.
  - (vi) If the dog is attached to a trolley system, the running line must be at least twelve (12) feet in length and the tether length must be greater than the height of the running line.
  - (vii) The tether is located so as not to allow the dog to trespass on public or private property nor in such a manner as to cause harm or danger to persons or other animals.
- (f) In the discretion of the enforcement authority, as that term is defined in section 531-711 of this Code, a person who violates any provision of this section for the first time may be given written notice of the practices or conditions which constitute the violation, and the enforcement authority shall in such instance direct remedies to such person where appropriate and provide a time period of no longer than thirty (30) days within which to correct the violation(s). Failure of the person to correct the violations within the specified time period shall constitute prima facie evidence of this section.
- (g) A person who violates any provision of this section shall be punishable as provided in section 103-3 of this Code; provided, however, the fines imposed for any such violation shall be as follows:
- (1) For the first violation, not less than twenty-five dollars (\$25.00); and
  - (2) For the second or subsequent violations, not less than two hundred dollars (\$200.00), and the court upon request shall order forfeiture or other disposition of the animal involved. A judgment by the court which orders forfeiture or other disposition of the animal by the city or any third party shall include as a part of such judgment adequate provisions for the collection of costs of forfeiture or impoundment from the person found in violation.
- (h) For purposes of this section, the following terms have the following meanings:
- (1) "Confined outside" means confined outside the house, mobile home, or apartment where the owner is living. Confined outside would include in the yard, or in a garage, shed, or barn without heating or air-conditioning. Access to a garage, shed, or barn maintained between 40°F and 80°F would not be considered confined outside.
  - (2) "Temperature controlled facility" means a building maintained between 40°F and 80°F.

**Sec. 531-501. Wild animal and dangerous animal determination, appeal rights and confinement requirements.**

- (a) For purposes of this article, the procedure, terms, and penalties provided in this section shall apply to wild animal and dangerous animal determinations, care requirements to be imposed, and actions by the animal care ~~and control~~ services division.
- (b) After an investigation, the administrator as assigned by the deputy director of the animal ~~control and care services~~ services division is authorized to make a determination whether an animal is, based upon the factors listed in section 531-101, dangerous or potentially dangerous and shall notify the owner of the animal in writing of that status. If the administrator has probable cause to believe that an animal is dangerous or potentially dangerous, the administrator may convene a hearing for the purpose of determining whether the animal in question shall be declared dangerous or potentially dangerous and to determine if the animal would pose a threat to public safety if returned to its owner or if specific conditions of care and treatment were not imposed on the return of the animal to its owner. Prior to the hearing, the administrator shall conduct or cause to be conducted an investigation and shall provide reasonable notice of the hearing to the owner.
- (c) Following notice to the owner and prior to the hearing, if the administrator has probable cause to believe that an animal is dangerous and may pose a threat to public safety, the administrator may obtain a search warrant pursuant to the laws of this jurisdiction and impound the animal pending disposition of the case. The owner of the animal shall be liable for the cost and expenses of keeping the animal.
- (d) The hearing shall be held no less than five (5), and not more than ten (10) days, excluding holidays, Saturdays and Sundays, after service of notice upon the animal's owner. The hearing shall be informal and open to the public. The owner shall have the opportunity to present evidence as to why the animal should not be declared dangerous or not pose a threat to public safety if returned to its owner. The administrator may present all issues for or against the owner of the animal regardless of whether the owner appears at the hearing.

(e) Within five (5) days after the hearing, the administrator shall notify the owner in writing of the determination.

(f) The owner may, within five (5) days after a determination that an animal is dangerous, bring a petition in this county seeking review of the determination. A decision by a court overturning the administrator shall result in the return of the animal to the owner subject to the provisions of section 531-733.

(g) Confinement of a dangerous animal means confinement to a fenced yard from which the animal may not escape by slipping under or over the fence or through an open gate or which would allow the animal to bite or to otherwise wound a person who may brush against or stick a hand or finger in, over or through the fence. Such an animal may be confined in an owner's home. The animal's confinement must be such as will prevent the animal from harassing neighbors or passersby and may not constitute either a sight, smell or noise nuisance.

(h) Any violation of this section shall subject the owner or person in possession of the animal to the enforcement provisions of section 103-3 of the Code, and the fine imposed shall not be less than five hundred dollars (\$500.00) for the first violation; not less than one thousand dollars (\$1,000.00) for a second violation; and upon a third violation, the animal shall be seized in accordance with section 531-721, et seq. If such violation results in the animal causing serious injury to any person, the court shall, upon request, order the animal forfeited and/or destroyed.

**Sec. 531-502. Wild animal and dangerous animal; registration required; limitation on ownership.**

(a) It shall be unlawful for a person to own a wild animal or dangerous animal in the city without first having registered the animal with the animal care ~~and control~~ services division under this article; however, this section shall not apply to zoological parks or bona fide circuses or carnivals.

(b) It shall be unlawful for any person to own more than two (2) dangerous animals at any time in the city. This subsection shall not apply to veterinarians and operators of kennels that are registered under Chapter 836 of this Code.

(c) It shall be unlawful for any person to own any dangerous animal that is a dog in the city unless the dog has been spayed or neutered by a veterinarian and has been implanted with a microchip with a registered identification number.

**Sec. 531-503. Crime prevention dog; registration required.**

(a) It shall be unlawful for a person to own a crime prevention dog in the city without first having registered the animal with the animal care ~~and control~~ services division under this article.

(b) Notwithstanding the provisions of section 531-202 of the Code, each crime prevention dog shall be implanted with a microchip which bears a registered identification number.

**Sec. 531-504. Registration information required; notification of change.**

(a) A registration required by this article shall be made on forms provided by the animal care ~~and control~~ services division, and shall include the following:

- (1) The owner's name, address, and telephone number where the owner can be reached in the event of an emergency;
- (2) The address and type of premises where the animal is kept;
- (3) A detailed description of each animal registered; and
- (4) Any other information deemed necessary and appropriate by the animal care ~~and control~~ services division.

(b) During the term of the registration, the owner of an animal registered under this article shall notify the animal care ~~and control~~ services division in writing of any change in circumstances which would render the information contained in the registration incomplete or inaccurate.



**Sec. 531-505. Registration fee, term and revocation.**

- (a) There is no fee for the registration of an animal under this article.
- (b) The term of the registration shall expire on the last day of December of the year in which the registration is made, and shall be renewable upon application therefor.
- (c) The animal care ~~and control~~ services division may revoke a registration issued under this article for any violation of this article committed by the owner of the animal.

**Sec. 531-601. Humane euthanasia of animals.**

- (a) The animal care ~~and control~~ services division, other animal shelters, and/or public animal facilities which destroy animals in the city, shall use only such methods, materials and standards as approved by the American Veterinary Medical Association for said purpose. In no event shall an animal be euthanized inhumanely.
- (b) The shelter shall provide sedatives for struggling or vicious animals when necessary for use during the euthanasia process and train its personnel in their proper and humane use and administration.

**Sec. 531-711. Enforcement authority defined.**

For the purposes of this article, the enforcement authority shall consist of the department of ~~code enforcement business and neighborhood services~~ by its animal care ~~and control~~ services division, its designees, and the Indianapolis metropolitan police department.

**Sec. 531-712. Enforcement authority's rights and responsibilities.**

- (a) Persons who are individually charged with the enforcement of this chapter, within the division of animal care ~~and control~~ services, shall be designated animal care and control officers, and prior to the performance of any act in connection therewith, shall be appointed and sworn as special police officers pursuant to Chapter 279, of the Code. Such animal care and control officers shall also receive appropriate and relevant training and be certified by the National Animal Control Association or other appropriate agency.
- (b) It shall be the duty of the Indianapolis metropolitan police department to assist in the enforcement of all provisions of this chapter and other ordinances in relation to animals, and it shall be the duty of all officers of such agency to report at once all violations thereof to police or sheriff's headquarters.
- (c) Such officers are authorized to enforce all provisions of this chapter and section 836-5 of this Code, including the right to proceed upon public and private property in the city in pursuit of animals in violation of this chapter.
- (d) Such officers are not authorized to enter a privately owned enclosure in pursuit of an animal without the consent of the owner, lessee or other occupant of the enclosure, or other legal process; provided, however, if any animal is believed to be enclosed without adequate food, shelter and water, or dead animals are believed to be enclosed, and such owner or occupant is not present and cannot readily be located, an animal care and control officer may affix a notice to the premises in an obvious location, directing the occupant to contact the officer at a given location and phone number. If neither the occupant nor anyone on the occupant's behalf responds to such notice within twenty-four (24) hours after the notice is affixed, an animal care and control officer may enter the premises to determine if the provisions of this chapter or section 836-5 of this Code have been violated.

**Sec. 531-713. Interference with enforcement authority.**

It shall be unlawful for a person to interfere with an animal care and control officer or other enforcement authority officer in the performance of the officer's duties. A person who violates this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for any such violation shall not be less than fifty dollars (\$50.00).

**Sec. 531-722. Notice to owner.**

- (a) Upon the impoundment of an animal, a reasonable attempt shall be made to notify and inform the owner of the animal of the requirements of this article for regaining the custody of the animal.

- (b) Such attempt shall include, but not necessarily be limited to, the following:
  - (1) In the instance of an impounded dog or cat, contact with the owner identified by the microchip or other permanent means of identification, if any, borne by the dog or cat;
  - (2) In the instance of an impounded dog or cat not bearing a permanent means of identification, contact with the veterinarian facility listed on the animal's vaccination tag; and
  - (3) Cooperation of effort with other governmental and private agencies, such as the Humane Society of Indianapolis or other humane and/or breed rescue organizations recognized by the animal care ~~and control~~ services division.

**Sec. 531-723. Report of impoundment.**

A person who confines an animal found by that person to be at large in the city shall notify the animal care ~~and control~~ services division or one of its agents within forty-eight (48) hours thereafter.

**Sec. 531-724. Return of captured animal without impoundment.**

When the owner of a captured animal is known, such animal need not be impounded but may be returned to its owner if, in the opinion of the animal care ~~and control~~ services officer, the return would not present a danger to the public or otherwise result in a violation of this chapter.

**Sec. 531-727. Petition for bond to cover costs of impoundment and care; forfeiture of animal.**

(a) Petition. Whenever an animal is impounded under this article for a violation of section 531-109, 531-204, or 531-305, or a violation of article IV of this chapter, or a violation of [article] V of this chapter, or a violation of 531-728, or has been impounded on a prior occasion, or the city prosecutor has applied for an order under section 531-733, the city prosecutor may file a petition with the court having jurisdiction over the ordinance enforcement action requesting an order to require the owner to post a cash bond to cover the fees and costs of the animal's care. The petition shall include an itemized estimate of the reasonable expenses the animal care ~~and control~~ services division expects to incur for the care of the animal from the time of impoundment to a minimum of thirty (30) days thereafter. Such expenses shall include but are not limited to the impoundment fee and kennel fees provided in section 531-726 of the Code, and the estimated cost of emergency and routine veterinary care.

(b) Hearing and order. The court, pursuant to its rules of procedure, shall provide the opportunity for a prompt hearing and prompt decision on the city prosecutor's petition. If the court finds there is a reasonable likelihood that the city will prevail on the merits of the ordinance enforcement action, then the court shall order the owner to post a cash bond as provided in this section to cover the fees and other costs of care of the animal for a specific period of time of not less than thirty (30) days beginning on the date of impoundment.

(c) Posting of bond; time requirements. The owner shall post the bond by delivering cash or a certified or cashier's check payable to "City of Indianapolis" to the animal care ~~and control~~ services division. The cash or check must be received by the animal care ~~and control~~ services division within three (3) days after the date of the court's order, excluding Saturdays, Sundays, and city holidays established in section 291-206 of the Code. The animal care ~~and control~~ services division shall hold such check or cash in trust until forfeiture of the animal, return of the animal to its owner, or final adjudication of the ordinance enforcement action, whichever first occurs.

(d) Renewal bonds. The animal's owner shall renew the bond at the end of the period of time ordered by the court, and every thirty (30) days thereafter, in the same manner as posting the bond provided in subsection (c) of this section. The owner's duty to renew the bond shall continue until forfeiture of the animal, return of the animal to its owner, or final adjudication of the ordinance enforcement action, whichever first occurs. The owner shall pay the renewal bond before the close of business on the last day of each bond period; however, if such last day is a Saturday, Sunday, or city holiday established in section 291-206 of the Code, then the renewal bond shall be paid on the last business day prior to such Saturday, Sunday, or holiday.

(e) Forfeiture. If an owner fails to post a bond within three (3) days as provided by subsection (c) of this section, or fails to pay a renewal bond before the close of business on the last day of each bond period as provided by subsection (d) of this section, then the owner shall be presumed to have surrendered all rights and claim of ownership and control of the animal and the city prosecutor may petition the court for an order to dispose of the animal under the provisions of section 531-731 of the Code.

(f) Expiration of bond. Upon forfeiture of the animal, return of the animal to its owner, or final adjudication of the ordinance enforcement action, whichever first occurs, the animal care ~~and control~~ services division shall be entitled to draw upon the cash or certified or cashier's check to cover the animal's impoundment fee, kennel fees and the cost of any actual veterinary care. After the fees and costs are paid, the city shall promptly remit any remaining bond money to the owner; however, if the bond money is not sufficient to cover such fees and costs, the owner shall be liable to the city for the difference.

**Sec. 531-731. Disposition of owner-surrendered animals and impounded animals not claimed by owner; adoption.**

(a) An animal surrendered by its owner to the animal care ~~and control~~ services division and not adopted, or rescued by a humane or breed rescue organization, may be kept or otherwise humanely disposed of, in the reasonable exercise of discretion of the enforcement authority, but consistent with such provisions as the animal ~~care and control~~ services advisory board shall make regarding the capture, surrender, impoundment, adoption, sale and destruction of animals. No healthy, behaviorally sound, adoptable owner-surrendered animal shall be humanely disposed of, while there is sufficient room in the kennel to reasonably house such animal at the animal care ~~and control~~ services shelter.

(b) An animal impounded under this article and that is not claimed by its owner shall be confined by the enforcement authority in a humane manner for a period after capture of not less than thirty-two (32) business hours. An animal not claimed within the impoundment period may be kept, adopted, rescued by a humane or breed rescue organization or otherwise humanely disposed of, in the reasonable exercise of discretion of the enforcement authority, but consistent with such provisions as the animal ~~care and control~~ services advisory board shall make regarding the capture, surrender, impoundment, adoption, sale and destruction of animals. Even after the expiration of the impoundment period, no animal shall be humanely disposed of, while there is sufficient room in the kennel to reasonably house such animal at the animal care ~~and control~~ services shelter.

(c) A free-roaming cat that is not spayed or neutered and is eligible for the community cat program is exempt from the mandatory thirty-two (32) business hour impoundment period and may be immediately processed through the community cat program.

(d) Following the thirty-two (32) business hour impoundment period, a person other than the animal's owner or a member of the owner's family who wishes to adopt an impounded animal that has not been claimed, and that is otherwise available for adoption, may adopt the animal. It is declared that the adoption of as many animals as possible is a priority of the animal care ~~and control~~ services shelter. Such person wishing to adopt an animal from the animal care ~~and control~~ services shelter shall pay to the city an adoption fee of fifty dollars (\$50.00) to cover the enforcement authority's expenses, including the expense of vaccinations; however, with respect to a dog or cat that does not bear an identification microchip, the enforcement authority shall cause a microchip with a registered identification number to be implanted in the dog or cat prior to the animal's adoption, and the adoption fee for such a dog or cat shall be sixty dollars (\$60.00). The foregoing notwithstanding, animal care ~~and control~~ services division may, upon the approval of the animal ~~care and control~~ services advisory board, set lower fees for adoption for special events and limited periods of time which shall be designated in advance and clearly defined. Such lowered rates may not be granted for individual animals, but may be designated by specified groups of animals.

(e) A dog or cat that has been impounded under this article or is otherwise available for adoption, must be spayed or neutered, prior to being released to any person who wishes to adopt the animal.

**Sec. 531-736. Capture, holding and maintenance, and disposition of animals by the humane society.**

(a) The Humane Society of Indianapolis, Inc., by its duly authorized agents, employees or other personnel, shall have the authority to proceed to the scene or location of a diseased, sick or injured animal which is at large in the county after being requested to do so by any member of the general public for the purposes of capturing and transporting such animal to its duly established humane shelter, and to hold and properly maintain the animal until it is either claimed by its owner, or in the discretion of the humane society, otherwise properly disposed of. The humane society may also receive an animal brought to its shelter by members of the general public or proper governmental personnel and either keep, or in the discretion of the humane society, otherwise humanely dispose of such animal.

(b) Upon the capture of any diseased, sick or injured animal or taking of an animal brought to its shelter by a person or any local governmental personnel, the humane society personnel shall make a reasonable attempt to notify and inform the owner of the animal of the requirements and procedures for claiming ownership and regaining custody thereof.

(c) When the owner of a captured or held animal is discovered or known, the animal shall be returned to the owner upon the payment of any applicable fees or upon the compliance with all other applicable procedures of the humane society. If the owner does not claim an animal or desires not to claim it, the humane society, within its discretion, may return the animal to any person desiring to assume ownership, custody and care thereof in conformance with the established requirements of the humane society after a four (4)-day holding period, as long as the animal has or will receive a current antirabies vaccination under the provisions of Article III of this chapter.

(d) Upon the capture of any diseased, sick or injured animal or the taking of an animal brought to its shelter by any person or any local governmental personnel, the humane society shall, subject to the provisions of subsection (e) of this section, confine the animal in a humane manner for a period of not less than four (4) days. Thereafter, the humane society in its discretion may keep, release or otherwise humanely dispose of the animal consistent with the established procedures of the humane society as they may be amended from time to time.

(e) Notwithstanding any provision of this section to the contrary, diseased or injured animals need not be retained four (4) days, but may be humanely disposed of at any time if in the discretion of the proper humane society personnel or authorized veterinarian such disposition is necessary and proper for such animals.

(f) This section does not authorize the humane society to assume any of the impoundment and disposition functions of the animal care ~~and control~~ services division as elsewhere specified in this chapter or state law.

(g) Nothing in this section shall inhibit the animal care ~~and control~~ services division in any way from carrying out its functions in accordance with applicable law and whatever provisions or regulations the city board of public safety shall make in carrying out its mandate to make provisions to maintain an animal care ~~and control~~ services division, to regulate the capture, impoundment, sale and destruction of animals in accordance with applicable law, and for the operation of the animal care ~~and control~~ services division.

**Sec. 531-811. Gifts to animal care ~~and control~~ services division; disposition.**

(a) All money generated, received or collected by virtue of the provisions of this chapter are to be set aside and placed in the general fund, except as hereinafter provided.

(b) Gifts or donations to the animal care ~~and control~~ services division may be accepted by the city controller or the mayor, for and on behalf of the animal care ~~and control~~ services division. All moneys received by donations, gifts, bequests or devises or otherwise (except as provided in section 531-811(c)) shall be paid to the city controller on the first day of the week succeeding the week during which such moneys were received, and deposited into a dedicated animal care fund to be used to promote the safe and humane treatment of animals in the city and to promote responsible pet ownership, to pay for any reasonable expenses incurred promoting the proper care, treatment and sterilization of animals and education of the public regarding the same. No expenditure may be made from the dedicated animal care fund unless first approved by a majority of the animal ~~care and control~~ services advisory board. The expenditure of funds from the dedicated animal care fund shall be subject to all state and local appropriation and purchasing requirements. Any funds donated for a specific purpose shall be used only consistently with the donor's specific request.

(c) All money generated, received or collected in response to the division's special fund-raising projects shall be payable to the city controller and deposited in a dedicated animal control special projects funds to be used in a manner consistent with the announced purpose of any special fund-raising event or project. No expenditure may be made from the dedicated animal care special projects fund unless first approved by the administrator as assigned by the deputy director. The expenditure of funds from the dedicated animal care special projects fund shall be subject to all state and local appropriation and purchasing requirements and appropriated by the city-county council.

(d) The administrator shall provide the animal ~~care and control~~ services advisory board, at each meeting, and to the council every six (6) months a report relating to the revenue and expenditures from the dedicated animal care fund and the dedicated animal care special projects fund.

**Sec. 836-3. Annual inspection; registration term; renewal.**

(a) Prior to the issuance of a certificate of registration or renewal of registration, the license administrator may cause an inspection of the kennel, pet shop or stable to be made by the animal ~~control care~~ services division to determine whether the applicant or registrant is qualified under this chapter. The animal ~~control~~ care services division shall report its findings to the license administrator.

(b) The registration term shall be in accordance with section 801-209 of the Code.

**Sec. 836-5. Requirements for kennels, pet shops and stables; enforcement.**

- (a) In addition to the registration required by this chapter, all kennels, pet shops and stables in the city shall:
  - (1) Be operated in such a manner as not to constitute a nuisance;
  - (2) Provide an isolation ward for boarded animals that are sick or diseased, sufficiently removed so as not to endanger the health of other animals;
  - (3) Keep all boarded animals caged or under the control of the owner or operator of the kennel, pet shop or stable;
  - (4) With respect to all animals in the kennel, pet shop or stable, comply with all the requirements of the Code for the general care of animals; and
  - (5) Comply with all applicable federal, state and local laws, and all applicable regulations adopted by the ~~city~~ department of public safety ~~department of business and neighborhood services~~.
- (b) The owner or operator of all kennels and pet shops in the city shall:
  - (1) At the time of purchase, notify the purchaser of all state and local laws that require an animal kept in the city to be vaccinated;
  - (2) Retain the name, address and telephone number of the owner of each dog or cat boarded, and retain the name and address of each person selling, trading or giving any animal to the kennel or pet shop; and
  - (3) Not sell animals that are unweaned or so young or weak that their sale would be injurious to the animals.
- (c) The provisions of this section shall be enforced by the license administrator, and by the animal ~~control~~ care services division as provided in Article VI of Chapter 531 of the Code.

**Sec. 361-103. Enforcement.**

This chapter and the rules and regulations authorized in section 361-104 shall be enforced by the department of public works and/or the authorized designee of the director of the department of public works, the division of ~~inspections~~ construction and business services of the department of ~~code enforcement~~ business and neighborhood services, and the Indianapolis metropolitan police department.

**Sec. 361-107. Recovery by city of expenses of litter removal.**

- (a) The city is damaged by the depositing of litter within the city, and the cost of litter removal has become a significant expense of the city. It is intended that persons responsible for such expenses shall bear the costs of same. In order to recover the cost of litter removal, the city may bring a civil action against any person believed to be responsible for depositing litter. The city may, in order to avoid the necessity of the institution of such action, make an offer of settlement to any person believed to be responsible for depositing litter. If the settlement offer is accepted, no action will be instituted by the city.
- (b) The department of ~~code enforcement~~ business and neighborhood services, and the Indianapolis metropolitan police department and their authorized agents, shall be responsible for determining the identity of persons responsible for damaging the city by depositing litter within the city, and, except as provided in subsection (d) of this section, are hereby empowered, as agents of the city, to make to any person believed to be responsible for damaging the city by depositing litter within the city, an offer of settlement as provided in subsection (a) of this section.
- (c) The board of ~~code enforcement~~ business and neighborhood services shall determine a standard amount of the settlement offer authorized to be made by this section. In determining the standard amount of the settlement offer, the board shall consider only such factors as may reasonably be considered when any individual offer of settlement is determined.
- (d) The provisions of subsection (b) of this section shall not be construed to require that a settlement offer be made if the amount of damage caused by the litter being deposited in the city is significantly greater than the standard amount of the settlement offer determined by the board of ~~code enforcement~~ business and neighborhood services pursuant to subsection (c) of this section.

**Sec 811-501. Citations issued by the department of ~~code enforcement~~ business and neighborhood services, and ~~by the department of public safety~~.**

Citations for failing to obtain an alarm business license under section 811-211 shall be issued by the department of ~~code enforcement~~ business and neighborhood services or its designee. Citations for violating other provisions of this chapter shall be issued by ~~the department of public safety~~ IMPD or its designee.

**Sec. 611-201. Purpose.**

It shall be the purpose of this article to authorize the impoundment of vehicles that, due to their location or condition, or which have been involved in violations of law, constitute a threat to the health, safety or welfare of the community or warrant temporary custody by the police or the department of ~~code enforcement~~ business and neighborhood services.

**Sec. 611-202. Definitions.**

As used in this article, the following terms shall have the meanings ascribed to them in this section.

*Accident* means a collision of vehicles or a vehicle and an object on a public street, highway, right-of-way or publicly owned property.

*Franchise* means the authority to tow vehicles on behalf of the city.

*Franchise fee* means money paid by the franchise wrecker to the city.

*Impound, impounded and impoundment* means the act of taking temporary custody of a vehicle and towing it from private property, a public street, highway or right-of-way to an authorized secured storage facility.

*Inspector* means a department of ~~code enforcement~~ business and neighborhood services employee authorized to serve notices for violations of this chapter or chapter 621, but who does not have general police powers.

*Officer* means and includes any member of the Indianapolis Metropolitan Police Department.

*Police hold* means an order from the Indianapolis Metropolitan Police Department to impound a vehicle because of its suspected involvement in criminal activity.

*Redeemer* means the vehicle's operator, owner or authorized representative.

*Storage fee* means that certain sum of money charged to the redeemer for the safekeeping of the impounded vehicle.

*Tow* means the act of lifting, pushing, pulling or removing a vehicle.

*Towing fee* means money charged to the redeemer of a towed vehicle.

*Vehicle* means a machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery, and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy, wagon, watercraft, aircraft and any other type of machinery designed to transport a person or property.

*Wrecker* means and includes any person engaged in the business of offering the services of a towing vehicle for use in removing, pulling, lifting, pushing, or carrying another vehicle, and this term shall include the employees, agents and towing vehicles used in the business of providing towing services.

**Sec. 611-204. Removal and impoundment of vehicles.**

(a) Any officer, inspector, or agent authorized by the director of the department of ~~code enforcement~~ business and neighborhood services, upon discovering a vehicle constituting a public nuisance, may cause the vehicle to be impounded as authorized by this article.

(b) Vehicles identified to be stolen or that come into the custody of the Indianapolis Metropolitan Police Department for other reasons may be subject to impoundment upon order of the investigating officer.

**Sec. 611-205. Storage and release of impounded vehicles.**

(a) A vehicle that is impounded or otherwise comes into the custody or control of the city may be secured at a storage facility maintained by a franchise wrecker or at a storage facility authorized by the director of the department of ~~code enforcement~~ business and neighborhood services. Such a storage facility shall not be operated by the city.

(b) An impounded vehicle shall be released upon a redeemer's payment of incurred towing and storage fees, upon authorization of the director of the department of ~~code enforcement~~ business and neighborhood services or the Chief of the Indianapolis Metropolitan Police Department, or upon order of a court having jurisdiction over the vehicle.

**Sec. 611-206. Procedure for selecting franchise wrecker services.**

(a) The director of the department of ~~code enforcement~~ business and neighborhood services shall consult with the Chief of the Indianapolis Metropolitan Police Department to develop specifications for the efficient removal, storage, release, and disposal of vehicles found in violation of this article, article III of this chapter, and IC 9-22-1. The director shall solicit franchise wrecker services by means of a request for proposal, a request for invitation to bid, a request for services, or a request to quote. Specifications shall include a minimum franchise fee to be paid by a franchise wrecker to the city. Any entity selected to perform franchise wrecker services shall be required to enter into a written contract with the city to perform franchise wrecker services.

(b) Funds realized by the city from the collection of franchise fees shall be deposited into the consolidated county fund or any fund required by law.

**Sec. 611-303. Responsibilities of the department of ~~code enforcement~~ business and neighborhood services.**

The department of ~~code enforcement~~ business and neighborhood services is charged with the responsibility for the removal, storage, release, and disposal of abandoned vehicles and, on behalf of the city, may enter into contractual arrangements for same pursuant to the procedures described in article II of this chapter.

**Sec. 611-304. Storage and release of abandoned vehicles.**

(a) Abandoned vehicles that are removed pursuant to IC 9-22-1 shall be towed and stored at a facility authorized by the director of the department of ~~code enforcement~~ business and neighborhood services.

(b) An owner or lienholder who claims an abandoned vehicle shall be charged a towing fee and a per-day storage fee as provided in the contractual arrangement with franchise wrecker as authorized in article II of this chapter. The storage fee shall be allowed to accumulate for a maximum period of sixty (60) days.

**Sec. 611-305. Appraisals of vehicles.**

(a) If a tagged vehicle or parts are not removed within seventy-two (72) hours of tagging, and the officer suspects the market value of the vehicle is five hundred dollars (\$500.00) or less, the vehicle shall be towed to a storage facility, and an appraisal shall be performed by an individual designated by the director of the department of ~~code enforcement~~ business and neighborhood services. If the appraisal confirms the market value of the vehicle is five hundred dollars (\$500.00) or less, the authorized towing service shall be instructed to provide for the immediate disposal of the vehicle to an automobile scrapyards. The department of ~~code enforcement~~ business and neighborhood services shall retain a copy of the appraisal and any photographs for two (2) years after the disposal of the vehicle or parts.

(b) If the appraisal indicates the market value of the vehicle is greater than five hundred dollars (\$500.00), the notification and disposal procedures in IC 9-22-1-23 shall be followed.

**Sec. 611-702. Restriction of transportation of hazardous materials.**

(a) Those portions of Interstate I-70 and Interstate I-65 that lie inside Interstate I-465 are conclusively presumed to be routes that go through or near heavily populated areas; therefore, the use of said routes for the transportation of materials required to be placarded by 49 CFR, Subpart F—Placarding, is prohibited where there is neither a point of origin nor destination within Marion County.

(b) Where there is neither a point of origin nor destination within Marion County, the materials specified in subsection (a) shall not be transported in the downtown area as defined in subsection (d), and shall be transported around the most heavily populated areas of Marion County by using Interstate I-465; however, Interstate I-70 and Interstate I-65 within Interstate I-465 may be used for local terminal visits.

(c) For cargoes with either a point of origin or destination within Marion County, the use of highways or streets in the downtown area, as defined in subsection (d) for the transportation of the materials specified in subsection (a) is prohibited during the hours between 7:00 a.m. to 9:00 a.m. and 3:30 to 5:30 p.m. daily except Saturdays, Sundays, and holidays.

(d) The downtown area is defined as the area within the boundaries of Thirtieth Street, East Street/Central Avenue, McCarty Street, and the White River Parkway.

(e) Exceptions to the above restrictions will be made only upon application to the director of the department of ~~code enforcement~~ business and neighborhood services in accordance with section 611-704.

**Sec. 611-704. Exceptions granted by director of ~~code enforcement~~ business and neighborhood services.**

(a) Transporters, shippers, and receivers of hazardous materials may apply to the director of the department of ~~code enforcement~~ business and neighborhood services for an exception to the requirements of section 611-702. An exception will be granted only where the following criteria are met:

- (1) Compelling need is shown — the applicant must show that delivery or pickup of the hazardous material can be made only by entering the downtown area during the hours prohibited by section 611-702(c); and
- (2) Transportation of the hazardous materials is in the public interest.

(b) An application for an exception under this section shall be filed with the permit section of the department of ~~code enforcement~~ business and neighborhood services.

(c) The board of ~~code enforcement~~ business and neighborhood services shall assist the director in granting the

**Sec. 645-322. Duties and responsibilities of the department of ~~code enforcement~~ business and neighborhood services.**

(a) The department of ~~code enforcement~~ business and neighborhood services, by and through its ~~bureau of license and permit services~~ division of construction and business services and ~~its division of inspections~~, shall be responsible for controlling all activities and work performed by any person, partnership, corporation or other entity, including departments, divisions, agencies or boards of the city, in, on, under and over public rights-of-way under the jurisdiction of the city ("public rights-of-way") and for enforcing compliance with the provisions of regulations adopted by the board of ~~code enforcement~~ business and neighborhood services ("board") pursuant to this article.

(b) The division of ~~inspections~~ construction and business services, after consultation with the engineering division of the department of public works, shall recommend to the board proposed regulations to be adopted by the board.

**Sec. 645-324. Permit required for work in right-of-way; enforcement.**

(a) Except as otherwise provided in subsections (b) and (c) of this section, it shall be unlawful for any person, partnership, corporation, or other entity, including departments, divisions, agencies or boards of the city to perform any work, including, but not limited to, cutting, drilling, digging or excavating in, on, over or under a public right-of-way without first having obtained a permit from the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services. A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars (\$100.00), and each day that an offense continues shall constitute a separate violation. The controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the ~~bureau of license and permit services~~ division of construction and business services.

(b) In the event an emergency arises that affects the health and safety of the public or requires the restoration of a utility service and such an event occurs at a time other than normal business hours for the ~~bureau of license and permit services~~ division of construction and business services, work may be performed in, on, over or under the public right-of-way without first obtaining a permit. If such event were to occur, the person, partnership, corporation or other entity performing such work must file for a permit from the ~~bureau~~ division on the first business day following the commencement or performance of the work.

(c) Notwithstanding the requirements of subsection (a), no permit shall be required for work in, on, over or under a street, (i) which is located within a subdivision platted after January 1, 1992, and (ii) which has not been accepted by the board in accordance with section 691-129 of this Code.



**Sec. 645-421. Permit required; enforcement.**

(a) It shall be unlawful for any abutting owner to alter, remove or cut any grassplot, sidewalk, the pavement of the street or the curb adjacent thereto, or to excavate in a street, for the purpose of locating or constructing any private or commercial driveway or roadway for vehicles to cross over such grassplot or sidewalk and to afford access to his or her premises, without first obtaining a permit therefor from the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services.

(b) A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars (\$100.00), and each day that an offense continues shall constitute a separate violation. The controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the ~~bureau of license and permit services~~ division of construction and business services.

**Sec. 645-422. Temporary driveways.**

A temporary driveway for use in connection with the removal or construction of buildings and excavations, or other work thereon, shall be permitted at any place in such manner and for such length of time as may be authorized by the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services.

**Sec. 645-427. Voidance of permit upon change of use or application for building permit for adjacent premises.**

(a) A permit granted pursuant to this division for the cutting of a curb, grassplot or sidewalk adjacent to any street for the purpose of locating or constructing any private or commercial driveway or roadway for vehicles to cross over any grassplot or sidewalk or to afford access to adjacent premises shall automatically terminate upon a change in the business usage of the premises, regardless of how slight or minor the change may be. Also, upon the application of any person for a building permit upon any portion of adjacent premises to which access is allowed by virtue of the permit issued pursuant to this division for a curb cut, such permit shall automatically terminate at the time of application for the building permit.

(b) The change of business usage or upon the application for a building permit, and the subsequent termination of a curb cut permit, as provided in subsection (a) shall subject the person owning or using the adjacent premises to the penalties for violation of this division just as though no permit had been issued for the curb, grassplot or sidewalk cut.

(c) In the event the person owning or using such premises at the time of the change in business usage or at the time of the application for a building permit, or the new owner or lessee, if any, shall immediately petition the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services for approval to retain the permit issued pursuant to this division, and the person complies with the decision or orders of the ~~bureau of license and permit services~~ division of construction and business services regarding modification, change, alteration or elimination of the existing curb, grassplot or sidewalk cut, such person shall not be in violation of this division.

**Sec. 645-428. Restoration upon abandonment.**

(a) When any private or commercial driveway or roadway has been abandoned or is no longer used for a driveway or roadway, the division of ~~inspections~~ construction and business services of the department of ~~code enforcement~~ business and neighborhood services may order any owner or owners of real estate abutting such driveway or such roadway to restore, construct or reconstruct any grassplot or sidewalk, or the pavement of the street or the curb adjacent thereto, which has been altered, removed or cut for the purpose of locating or constructing the private or commercial driveway or the roadway to at least as good condition as the grassplots, sidewalks, street pavements and curbs adjoining such driveway or the roadway. The division of ~~inspections~~ construction and business services shall mail a written notice of the order to the owner or owners at their last and usual places of residence that are known to the board or, if no such places of residence are known, to the address of the real estate abutting the driveway or the roadway. Within sixty (60) days after the mailing of such notice or within such longer time as may be stated in the notice, the owner shall complete all work required by the order in accordance with the provisions of this section, and failure to do so shall constitute a violation of this division.

(b) Should the restoration, construction or reconstruction ordered pursuant to subsection (a) not be completed within the time required, the division of ~~inspections~~ construction and business services may request such restoration, construction or reconstruction to be done by the department of public works or by contract, and the entire cost thereof, together with such additional charge as may be made by the division of ~~inspections~~ construction and business services,

in an amount provided in section 131-501 of the Code, may be collected by action therefor against the owner or owners; or the board, in lieu of and in addition thereto, may file and certify the cost and charges to the controller, who shall file a statement thereof with the county treasurer, who shall place such charges upon the tax duplicate, whereupon it shall constitute a lien upon the real estate and be charged and statements rendered therefor and be collected the same as taxes. No notice of any such charge so assessed shall be required, but each such person so liable shall be chargeable with notice thereof, as shown by the public tax and other records.

**Sec. 645-431. Permit required; enforcement.**

(a) Before any person, pursuant to a private contract therefor and for the benefit and use of his or her abutting real estate, shall make any cuts into the pavement or in any other portion of any improved street, sidewalk, curb or public place to excavate therein or to excavate in and beneath the surface of any unimproved street for the construction, reconstruction, alteration or repair of any driveway, sewer or sidewalk, or for the installation or repair of connections of private sewers, drains or public utility service lines located upon and serving his or her abutting real estate with any public sewer or public utility service lines located in the public way or place pursuant to any provisions of this Code, he or she shall first obtain a permit therefor as provided in this division.

(b) A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars (\$100.00), and each day that an offense continues shall constitute a separate violation. The controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services.

**Sec. 645-432. Permit application.**

Any person desiring a permit required by this division shall cause an application therefor to be filed with the ~~bureau of license and permit services~~ division of construction and business services. The application shall be filed by the owner of such premises, or by his or her legal representative or agent, or by the contractor or other person concerned, or as may be otherwise required by this Code or by any statute.

**Sec. 645-433. Payment of fees.**

(a) No permit required by this division shall be issued until the applicant therefor shall first pay to the ~~bureau of license and permit services~~ division of construction and business services the regular permit fee, plus all fees for the various types of work proposed to be done.

(b) The general fee for a permit required by this division shall be as established by this Code for the type of excavation for which the permit is sought. If such permit fees are not prescribed and fixed as to any type of work to reimburse the city in whole or in part for its expenses, including its inspections of any kind of work requiring cuts in pavements and excavations in streets, or public places, or in any portions thereof, or in effecting connections of abutting property with any public sewer, drain or public utility service lines, or for any other work, the board of code compliance is hereby authorized to adopt at any time a reasonable general schedule covering the various kinds of such work, based upon the prevailing engineering standards entering into work of similar character and the customary amount of such fees and charges in the city. Such charges shall not be less than five dollars (\$5.00) for the issuance of each permit, to which may be added for all permits a flat minimum charge of not over ten dollars (\$10.00). In addition to such two (2) initial charges or fees totaling fifteen dollars (\$15.00) to compensate the city for its general expenses involved, chargeable for all permits for any kind of work to be done thereunder, the board shall determine by the standards in general use and shall adopt a reasonable schedule of charges for constructing or replacing pavements or surfaces of streets or sidewalks, using concrete, asphalt, bituminous treated gravel, dirt or plain gravel, or any other type of surface materials, and based upon the estimated and usual cost thereof per square yard for similar work in the city, in an amount sufficient to cover the cost of all such work that will be required in any instance under each permit. The schedule may be revised from time to time, as conditions and costs may vary and require. At this time, to be so determined and adopted by the board, there may be a minimum charge per square yard for all such work on the roadways or streets of ten dollars (\$10.00) for concrete or asphalt; seven dollars and fifty cents (\$7.50) for bituminous treated gravel; five dollars (\$5.00) for dirt or plain gravel; and fifty cents (\$0.50) for concrete sidewalks; but the board may alter or vary such scale of charges as it finds to be fair and reasonable.

**Sec. 645-434. Scope of permit.**

A permit required by this division may be for the work to be done under one (1) specific contract, or may be issued to a person generally engaged in such work, to whom has been or may be issued a general permit for not

exceeding two (2) years, without charge therefor, which shall be covered by one (1) performance and maintenance bond, to be kept effective for all such work done by him or her during such entire period, subject to the right of the ~~bureau of license and permit services~~ division of construction and business services to revoke the general and any special permit at any time, and subject also to the requirements of obtaining separate special permits for each instance of any such work being done by him or her under any private contract and the payment by him or her of the separate permit fees required therefor by this division.

**Sec. 645-435. Indemnification agreement; liability insurance.**

A person doing work under any special permit issued pursuant to this division shall also agree to indemnify the city and any party in interest under the contract against all claims, demands, actions, judgments, losses and expenses arising from any injuries to any person or damage to any property resulting from the work or from any conditions created thereby in the street or public place. The permittee shall present a certificate to the ~~bureau of license and permit services~~ division of construction and business services that there is in effect a standard public liability insurance policy by a company authorized to engage in such business in the state, with such limits of payment as the board may require, but not less than fifty thousand dollars (\$50,000.00) for injury to one (1) person and not less than one hundred thousand dollars (\$100,000.00) for injuries to more than one (1) person and not less than ten thousand dollars (\$10,000.00) for damages to property. The insurance policy, an extension thereof or a new policy shall be kept in effect during the entire specific period for which a performance and maintenance bond is in effect and for which a general permit has been granted to any such person; or for the time any work is done and maintained under a single contract and any specific permit and bond therefor.

**Sec. 645-438. Surety bond.**

(a) Any person doing any kind of work subject to this division under private contract and permit, unless then so qualified and having a general permit and performance bond in effect, shall execute and file with the ~~bureau of license and permit services~~ division of construction and business services, before beginning any such work, a bond for the proper performance and maintenance of such work, with a surety approved by the board, in the penal amount of not less than two thousand five hundred dollars (\$2,500.00) for a single street cut or twenty-five thousand dollars (\$25,000.00) for unlimited multiple street cuts in any year, for the use and benefit of the city or of any party in interest under such contract.

(b) The bond required by subsection (a) shall continue to be effective for and applicable to each and all special permits and to any continuing general permit issued therewith to the principal for any such work, under private contract, for a period of two (2) years from the date of the bond, and for such further periods as the bond and any general continuing permit may thereafter be extended by endorsements thereon of the parties thereto and as so approved by the ~~bureau of license and permit services~~ division of construction and business services, which ~~bureau~~ division may require increases in the penalty of the bond and a new or additional surety at any time, or may cancel any permit issued pursuant to this division. The bond shall be subject to all relevant provisions of this Code and of any other ordinances of the city and of all relevant statutes. Such bonds shall be conditioned upon such person obtaining and renewing an annual license from the city to engage in such business, where so required for each year during the two (2) calendar years, or for such other period of years for which the bond and general permit may be extended; it shall further be conditioned upon the permittee's discharge of his or her duties and compliance with all provisions of this Code and of any other city ordinances, rules and regulations at any time in force in relation to the mode, manner or form in which the work shall be done and maintained by him; and it shall further be conditioned that he or she will indemnify and save harmless and free from all loss, damage, expenses, claims, demands and judgments, the city and any party in interest under such contract, arising from any negligence of the person or of those employed by him or her in doing and maintaining the work, or in furnishing and using any materials therefor, or in failing to comply with all requirements of the director of the department of ~~code enforcement~~ business and neighborhood services, the ~~bureau of license and permit services~~ division of construction and business services, and with all statutes, provisions of this Code or of any later ordinance, relating to or controlling such work.

(c) The bond provisions and conditions established in subsection (b) shall be a part of every bond required by subsection (a) and shall be binding upon such obligor and all other persons, whether so expressed in or omitted from any such bond.

(d) The ~~bureau of license and permit services~~ division of construction and business services, in its discretion, may change or add to any bond conditions, or change the form of the bond to make it include and comply with such requirements. The ~~bureau~~ division may authorize or require renewals thereof and a sufficient surety as often as necessary to insure the completion of the work, as approved by the administrator of the ~~bureau~~ division and its proper maintenance for one (1) year, or other period prescribed by the ~~bureau~~ division, after such acceptance. The ~~bureau~~ division may at any time adopt any general rules and regulations or issue any special orders that it deems necessary to

control all or any phases of such work and all other matters relating to the proper restoration and maintenance of any street or public place so involved. Any bond previously executed shall be controlled by any such changes in its conditions and form, when the principal and surety are notified thereof by the bureau division and do not object thereto. If an objection in writing is filed with the bureau division, such changes shall not apply to any such bond while it remains in effect.

(e) As an alternative to the execution of any performance and maintenance bond required by subsection (a), the ~~bureau of license and permit services~~ division of construction and business services may require, in any instance, the deposit with the bureau division of cash or a certified check in such amount as it deems necessary for the estimated cost of doing and maintaining the work properly, to insure the full compliance of such person with all the requirements of the bureau division and of all the conditions similar to those applicable to the bond.

**Sec. 645-439. Plans and specifications.**

Unless otherwise required or permitted by the ~~bureau of license and permit services~~ division of construction and business services, all plans and specifications for the work relating to any commercial driveway constructed under private contract, but not relating to any private driveway, shall be prepared and certified by a professional engineer registered by the state; and the general plans and specifications of the board for acceptance of street improvements by the city as prescribed in this article, so far as applicable to any such work, shall also control the work done under any private contract and permit therefor.

**Sec. 645-440. Excavations affecting drainage or grade.**

No person shall dig any hole or make any excavation in any street or public place that interferes with drainage when the work has been completed or thereby changes the grade, contour and level of any street or public place in the city below the existing surface or below the level of the grade as it has been lawfully established by the city before or at such time, unless the work and changes have been authorized by the ~~bureau of license and permit services~~ division of construction and business services after consultation with the engineering division of the department of public works.

**Sec. 645-441. Protection of excavations.**

(a) Any person cutting a pavement, curb, sidewalk or driveway, or digging any hole in or excavating in any street, sidewalk or public place, for any purpose authorized by the city, or acting in an emergency repair or under a public or private contract, shall erect and maintain at all times around any such place, hole or excavation suitable and sufficient barricades for the protection of the public. When such cuts, holes or excavations are made in or across sidewalks or driveways, or at other places used by pedestrians, bridges, platforms or covers shall be erected over them sufficient to serve for the safe passage of the public, in addition to placing and maintaining, where needed, such barricades.

(b) All places for which protection is required by subsection (a) shall be properly lighted at night, as required by the city for any other work in the streets, under either public or private contract, and by the city safety regulations, which lights shall be maintained from one-half (1/2) hour after sunset until one-half (1/2) hour before sunrise during each night, until all such work is fully completed and the conditions of danger are fully removed.

(c) The guarding and protection of excavations, cuts or holes by any person causing such conditions shall be a continuing duty and shall be subject to the supervision, directions and orders of the division of ~~inspections~~ construction and business services, the police and the firemen.

(d) The requirements of subsections (a) and (b) shall apply to all other provisions of this Code relating to any similar hazards created by any kind of work being done by or for any department or official of the city or by any person in any street, public place or ground, which is at any time either owned by or under the control of the city, or is situated anywhere within its jurisdiction.

**Sec. 645-442. Restoration of pavement.**

(a) Whenever any portion of a public way is excavated by any person authorized to do so, the person so doing any such work shall also restore such place to its former condition, whenever so required by the city, acting under the directions and orders of the division of ~~inspections~~ construction and business services of the department of ~~code enforcement~~ business and neighborhood services.

(b) When so ordered, a permittee under this division shall remove any portion of the pavement or other surface to the extent necessary, and the ground or materials used for relaying the base of the torn-up pavement or surface of the

street shall be thoroughly wet rolled and tamped, and otherwise prepared so that the new pavement or surface may be laid and maintained thereon uniformly and in as good condition as it was before being torn up. All such work shall be done according to the city's standard specifications therefor, or according to such added specifications as the division of ~~inspections~~ construction and business services may require.

(c) When any pavement or surface of any street is cut, torn up, disturbed or excavated in any manner, the person doing so shall restore such pavement or surface as soon as possible, if ordered to do the work, to at least its former condition and in accordance with the provisions of this article and the city's general specifications therefor, and subject to the orders and approval of the division of ~~inspections~~ construction and business services.

(d) In all cases subject to this section, the city may elect to do all or any part of such work by its own forces or by other persons, and charge the cost therefor to the person to whom an excavation permit was issued pursuant to this division, who shall pay such costs upon demand by the city. The city, by the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services, shall notify each such person of its election in respect to the work it proposes to do, or the city may so elect by a general order of the board of public works, applicable to all such instances until its further order thereon.

**Sec. 645-443. Penalty for hiring unqualified contractor.**

It shall be unlawful for a person to execute a contract to have work subject to this division done by a person who is not so qualified and authorized to engage in such work under all the requirements of this Code, and to fail to ascertain such fact by inquiry at the office of the ~~bureau of license and permit services~~ division of construction and business services. The fine imposed for a violation of this section shall not be less than one thousand dollars (\$1,000.00).

**Sec. 645-512. Public ways not to be used for private purposes; exceptions.**

(a) The streets, alleys, sidewalks, bridges and public places of the city shall be maintained open at all times for travel by vehicles and pedestrians and for all other proper public uses and purposes. No part thereof, or any spaces above or below such public ways, except as otherwise authorized by statute, this article or Code, or by any other city ordinance, shall be used for any private purpose or business. Except as may be so authorized, no use shall be permitted that affects the orderly appearance thereof, or obstructs or hinders public travel thereover, contrary to the public safety and welfare.

(b) As provided in Chapter 986 of the Code, a temporary sign may be placed upon any street, alley, sidewalk, bridge, or public place, so long as the following conditions are met:

- (1) The temporary sign is associated with a civic sponsored special event;
- (2) The temporary sign has been approved by the civic sponsored special event sponsor;
- (3) The temporary sign complies with the operating requirements established in section 986-204 of the Code; and
- (4) A limited duration license has been issued in accordance with Chapter 986, article II of the Code.

(c) The board of ~~code enforcement~~ business and neighborhood services may adopt reasonable regulations regarding the materials, dimensions, and locations of these temporary signs.

**Sec. 645-514. Use of plots between sidewalk and curb.**

(a) The owner, agent, occupant or lessee of any premises, if first applying for and obtaining the approval of the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services and the board of parks and recreation, may use the plot between the curb and sidewalk for grass or a tree row in front of such premises, lying anywhere between the curblin and the property line and not used by the city for the paved part of any sidewalk or street, and may beautify and improve all or any part of such plot of ground by sodding it, sowing grass seed therein, or by setting out or growing therein plants or flowers, as may be authorized and so long as no obstruction of the roadway or sidewalk results.

(b) Any person desiring so to use and beautify the ground between the sidewalk and the curb shall make written application for a permit therefor to both the ~~bureau~~ division and the board of parks and recreation, showing the character and extent of the use or enclosure and the manner of the proposed improvement; and if satisfied with the

propriety thereof, such ~~bureau-division~~ and board may grant and issue such permit, but the approval of both the ~~bureau division~~ and the board shall be required.

(c) Whenever the plot subject to this section has been used, sown, sodded or beautified in accordance with the permit required by subsection (b), such person shall maintain it in good order, and no person, without authority from such boards, shall walk upon or across the plot, or pluck, cut or injure in any way any flower or plant thereon, or purposely remove, damage, cut, mark or injure in any way such plot or anything so planted or growing therein.

(d) Such use of the ground and any permit therefor shall remain subject to the control of the ~~bureau-division~~ and the board of parks and recreation, as their respective jurisdiction authorizes, and such permit may be revoked at any time, after notice to the permittee fixing a time to vacate such space, and any continued use of the plot thereafter shall be unlawful.

(e) When any plot of ground subject to this section is not used by obtaining a permit therefor, the person owning or controlling the premises, unless the city elects to do so, shall keep such plot free of a tall growth of weeds or rank vegetation and any grass growing or sown thereon shall be mowed at reasonable intervals by such person so as to maintain the plot in an orderly and slightly appearance and condition.

(f) It shall be unlawful for any person to place rubbish, trash or wastes upon any plot subject to this section, or on any other part of the street, except as permitted and necessary to be so placed for collection thereof by the city; or for any person to operate any vehicle or ride or drive any animal upon or across such plot, or permit any animal, such as a horse, cow or similar large animal, to graze or walk upon any such plot or otherwise to damage or destroy it.

**Sec. 645-518. Stringing wires across public ways.**

It shall be unlawful for any person who is not a licensed electrician under this Code and who is not duly authorized to do so by the city to string any wires for use as radio or television aerial wires, or for any other private purpose or use, across any street, alley or other public place in the city. No person shall place any such wires for any purpose without having a permit therefor from the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services, except while acting as an employee of and for any public utility that has a permit as required by this Code.

**Sec. 645-519. Permit for placing banners, signs or structures on streets.**

No person shall place or use any banner, sign or structure for any purpose whatever on any street in the city where such sign or structure obstructs or tends to obstruct the use of the street or sidewalk, nor shall any banner, sign, structure or other thing be placed upon or strung over or across any street without first obtaining a special permit for such limited and temporary use from the ~~bureau of license and permit services~~ division of construction and business services, subject to its further orders thereon.

**Sec. 645-520. Earthen materials.**

It shall be the duty of each person owning or occupying any premises adjoining a street or improved sidewalk, and doing any kind of work causing earth, dirt, materials or debris to be accumulated by or for him or her upon any portion of the street or sidewalk abutting such premises, to remove or cause the removal thereof within twenty-four (24) hours from the time of such accumulation, unless he or she obtains an extension of time therefor from the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services. While such materials are allowed to remain at any such place, the person causing the obstruction shall provide proper barricades and lights therefor, as required for other such obstructions placed upon the public streets.

**Sec. 645-521. Permit for bicycle or motorcycle racks on sidewalks.**

No person shall erect, place or maintain any bicycle or motorcycle rack on any sidewalk or in the space between the property line and the roadway of any street, without first obtaining a permit therefor from the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services. The permit may be issued, without charge therefor, under such terms and conditions as the ~~bureau division~~ deems advisable for the protection of the public and the interests of the city, and it shall be revocable by the ~~bureau division~~ at any time.

**Sec. 645-531. Permit for activity after district cooling system franchise agreement.**

Notwithstanding the provisions of section 645-512 or section 645-546, after a franchise agreement has been granted by the city-county council for a district cooling system and subject to Article II of this chapter, the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services, after consultation with the engineering division of the department of public works, may issue permits to the franchise holder for activity within the public rights-of-way located in the franchise district.

**Sec. 645-542. Permit required.**

No person shall hereafter use or change, for private purposes, any space on, over or underneath the surface of any public street, sidewalk or other public place in the city; or construct or maintain any structure thereon, bridge thereover, or tunnel thereunder; or disturb the sidewalk, curb or roadway on a public way; or use the space beneath any public way for the purpose of constructing, reconstructing, extending or maintaining any vault, cellar, areaway, structure, coalhole, trapdoor, stairway, elevator or other opening; or install or use any appurtenances thereto; without first obtaining a permit therefor from the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services.

**Sec. 645-543. Permit not to be issued for permanent obstructions.**

(a) No person shall build or place, or cause or permit to be built or placed, any stand, window, stairway, porch or other structure or obstruction of that type, designed for private use or business purposes, which extends into, over or on the street and sidewalk adjoining such premises, and which is owned or controlled and used by him, when such structure is permanent in character and occupies or uses any portion of the surface of the street.

(b) Any existing structure or obstruction prohibited by subsection (a) shall be removed when so ordered by the city, or the city may remove it at the expense of the owner.

(c) All applications for permits required by this division to build any structure of the type prohibited by subsection (a) shall be refused and rejected by the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services. Temporary structures on the streets may be so located for special occasions and uses when permitted by the ~~bureau~~ division, subject to removal at any time on its order.

**Sec. 645-544. Application for permit; approval.**

An application for a permit required by this division shall be accompanied by any plans and specifications required by the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services and by a sketch or diagram showing the gross measurements of the vault, bridge, tunnel or other structure to be constructed or changed, together with all openings in and uses of the surface over the proposed use and any other proposed changes in the existing use of the street to public place. The sketch or diagram and any plans and specifications shall be approved by the ~~bureau~~ division before a permit is issued or any such work is commenced.

**Sec. 645-545. Bond.**

(a) Each applicant for a permit required by this division shall file with his or her application a public liability bond in the minimum sum of five thousand dollars (\$5,000.00) for injury to one (1) person, fifty thousand dollars (\$50,000.00) for injuries to more than one (1) person, and two thousand dollars (\$2,000.00) for damage to property, with surety to be approved by the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services.

(b) The surety on the bond required by subsection (a), if a natural person, shall own property in the aggregate value, over and above all encumbrances thereon, of twice the sum fixed in the bond.

(c) The bond shall be duly executed and shall be conditioned upon the agreement that the person to whom the permit is issued and his or her heirs, personal representatives, successors or assigns will save and keep the city free and harmless from any and all loss, damage, claims, demands, judgments and expenses arising from or out of the granting or use of such permit, or the construction or use of the space, structure, bridge, tunnel, vault, coalhole, trapdoor, stairway, elevator or other opening therein, or of any other structure or use maintained in connection therewith, and that the permittee will at all times maintain the public way or place, including the sidewalk over any such space or opening, as the case may be, and all structures built by him, in such condition that the public way or place and such structures at

all times during the construction or repairs, or after any of the things aforesaid are completed, or such space is so used, will be maintained by him or her in good condition and repair and safe for public traffic and use; conditioned further for the prompt vacation and removal of any of the things so constructed and used, as authorized by the permit, and the restoration of such sidewalk and street, upon thirty (30) days' notice from the ~~bureau of license and permit services~~ division of construction and business services, whenever in the opinion of the ~~bureau~~ division and unless otherwise inhibited by statute, it shall be necessary or advisable to have the use or any portion thereof vacated or removed in order to conserve the public safety or welfare, or to provide for the use of the space or any portion thereof for any public purpose, or for the use of any public utilities, or because of the construction of railway lines, wires or tracks, or of a subway or elevated structure for transportation purposes either on, under, over or adjacent to the public way or public place in which any privately used space or structure is located, or for the purpose of constructing, reconstructing, moving, erecting or maintaining any sewer, drain, conduit, pipe, tube, pole, wire, structure or other similar use because of the construction of such a subway, or elevated structure, or for any public use or any other public utility purposes; and conditioned further that the bond will be renewed and kept in full effect, with an approved surety, and a certificate of such fact kept on file with the ~~bureau of license and permit services~~ division of construction and business services, so long as any private uses and structures are continued, and for the faithful performance and observance of all the terms and conditions of the permit and bond and of the various sections of this division and all other provisions of this Code and state law relating thereto.

(d) The bond required by subsection (a), if and when placed of record in the office of the county recorder, or respecting any person with actual notice thereof, shall constitute a covenant running with the land, and it shall be deemed and construed to include all the aforesaid conditions, regardless of their inclusion in or omission from the text of any such bond.

(e) Whenever the ~~bureau of license and permit services~~ division of construction and business services determines that the sureties on any bond given pursuant to this section have become insufficient and so notifies the holder of the permit or his or her successor, a new bond for the permit shall be filed, or new sureties substituted, to be approved by the ~~bureau~~ division. Unless so filed within the time fixed by the ~~bureau~~ division, the permit shall be revoked and all uses and rights thereunder shall be terminated.

#### **Sec. 645-546. Restrictions on permits for subsurface uses.**

No permit required by this division shall be issued for the private use by any person of any space under the surface of the roadway and between the curblines of any improved public way or public place; such spaces shall be reserved exclusively for any necessary use of any such space by public utilities or public authorities. Any such existing uses under any roadways in the city may be vacated and removed by order of the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services, whenever in its discretion the public safety and welfare so require.

#### **Sec. 645-547. Exception to restriction.**

Notwithstanding the provisions of sections 645-512 or 645-546, the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services may permit Ogden Martin Systems of Indianapolis, Inc., to establish a steam line within the public right-of-way on Harding Street from one thousand (1,000) feet south of Raymond Street to Kentucky Avenue.

#### **Sec. 645-548. Permit fees.**

Fees for a permit required by this division shall be based upon the character of the use and the number of cubic feet occupied by the vault, space or other structure located on, under or above the surface of the public way or public place for which a permit is to be issued, and shall be determined as uniformly as practicable by the director of ~~code enforcement~~ business and neighborhood services, varying from a minimum fee of five dollars (\$5.00) for the issuance of each permit, plus additional fees varying from a minimum of ten dollars (\$10.00) to a maximum of two hundred dollars (\$200.00). The board of ~~code enforcement~~ business and neighborhood services may fix such fees in each instance, or may adopt a general schedule for the various classes of fees, based upon engineering and construction costs in the city for similar kinds of work. No additional permit fees shall be charged, except where a new permit is required for the use of additional space, for minor alterations in the construction of or changes in any structure, coalhole, elevator or other opening, or variations in the plans, but not affecting the surface of the way, which were not enumerated in the original permit, if the board of ~~code enforcement~~ business and neighborhood services approves such changes and waives further fees, or where the party to whom the original permit was issued has transferred his or her interest to another party as provided in this division. In case of such a transfer, however, the purchaser of the interest shall pay to the ~~bureau of license and permit services~~ division of construction and business services an additional five dollars (\$5.00) for the issuance of a transfer of the permit.



**Sec. 645-553. Revocation of permits.**

(a) All permits issued pursuant to this division shall be at all times subject to revocation, in whole or in part, by the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services, whenever the ~~bureau~~ division, on its own motion or upon the recommendation of other city or state officials, shall consider it necessary or advisable to have any vault, space, opening or other use of any street authorized by any such permit, or any other use, to be removed and vacated in order to secure the public safety or so that it may be used for any public purpose, including uses by any public utilities, or because of the construction or maintenance of a subway or elevated structure for transportation purposes in, under or near the public way or public place in which the vault, space, opening, bridge or tunnel is located, or other use made of any street, or for the purpose of moving, constructing or maintaining rails, sewers, mains, conduits, pipes, tubes, wires, poles or other structures of any kind, because of the construction or maintenance of the subway or elevation for transportation purposes, or for any other public utility uses.

(b) No permit shall be issued under this division, except under the condition and the agreement of the party to whom the permit is issued that the vault or space, wherever so located, or any portion thereof, and all or any appurtenances thereto, or any other uses so required to be used for such public purposes, shall be vacated and removed within thirty (30) days after the ~~bureau~~ division shall have given notice of revocation of the permit to continue such prior and existing uses, and that in case such party fails to vacate the space, vault or other use, or such portions thereof as are specified in the notice, the ~~bureau~~ division may revoke the further use and maintenance thereof and may cause the use to be vacated and removed and made secure, as ordered, at the expense of the party to whom the permit was issued, or it may enjoin and abate the use by appropriate action, and all expenses incurred or damages or judgments incurred or paid by the city, on account thereof shall be borne by such party and shall be paid to the city upon demand, or be recovered by action thereon.

(c) If any person who has secured a permit pursuant to this division shall fail or neglect to comply with any of the terms of this division or this Code at any time, the permit may be revoked by the ~~bureau~~ division or by the mayor, and it shall be revoked by the ~~bureau~~ division in all cases, unless otherwise provided by law, where the ~~bureau~~ division, in the exercise of its discretion, has determined that such revocation is proper or necessary for the public safety or welfare.

**Sec. 645-555. Protection of underground utilities; restoration bond or deposit.**

(a) No person shall use or alter the space under any sidewalk, street or public place in such a manner as to damage or interfere with any sewer, water pipe, conduit, wire or any other work or structure lawfully installed in the public way by any public authority or public utility, unless by the express consent of the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services after consultation with the engineering division of the department of public works, and of any such utility, under the conditions prescribed by them.

(b) No permit required by this division shall be granted until any utility affected has been notified and the applicant therefor has executed an approved indemnity bond or has paid to the ~~bureau~~ division a sum of money that it deems sufficient to defray the cost and expense to the city and to any utilities affected by renewing, rebuilding, relocating or relaying all or any of such facilities so disturbed, and making the necessary connections therewith, if the holder of the permit fails to do so as approved by them.

(c) Every person damaging, altering or disturbing any underground utilities shall restore them at his or her expense and within the time fixed by the ~~bureau~~ division to such condition as they were in prior thereto and as will meet the approval of the ~~bureau~~ division and of any such public utilities; and if and when so restored, the sum so paid to the ~~bureau~~ division or any balance unused shall be refunded. If the permittee fails to restore such underground facilities, the ~~bureau~~ division shall cause them to be restored in a manner meeting its approval and that of such utility and the cost thereof shall be paid out of the deposit. If such cost exceeds the deposit, the person shall pay forthwith to the city any such excess.

**Sec. 645-556. Procedure upon conveyance of premises.**

(a) Any person to whom a permit has been issued pursuant to this division or who has given a bond for the occupation and use of space under, on or above any public way, place or sidewalk pursuant to a permit or a resolution of the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services, and who has conveyed his or her interest in the premises for which

the permit is issued, shall notify in writing the ~~bureau~~ division of such conveyance, together with the name and address of the purchaser thereof.

(b) Upon giving the notice required by subsection (a), the person or his or her successor may secure from the ~~bureau of license and permit services~~ division of construction and business services, on the recommendation of the administrator ~~as assigned by the deputy director of such bureau~~ division, a permit to remove or close up any coalhole, stairway, elevator, structure, bridge, tunnel, opening or any other use maintained on, below or above the sidewalk or public way, and to restore the place and public way to a condition similar to the balance of the sidewalk, street or public place in front of the premises. Upon completion of the work, subject to the approval of the ~~bureau~~ division, all liability under the bond theretofore given by such person shall cease and determine, except as to any acts happening or causes of action accruing prior to or during the removal or closing of all such openings or structures. If, however, the purchaser shall pay the permit transfer fee provided for by this division and also shall execute a new bond conditioned as aforesaid, a permit may be issued to the purchaser covering the continued use of and changes in the permitted use specified in the original permit, and it shall not be necessary in such event for the person to whom the original permit was issued to close up the opening or to terminate the use, but the filing of the new bond and the securing of a new permit by the purchaser shall act as a release of the original permittee for any future liability under the bond originally given by him, in like manner as if the opening had been closed or other things had been done by him or her according to the approval of the ~~and the bureau~~ division, except as to any causes of action accruing prior to the filing of such new bond.

(c) A bond may not be required to be filed, in the discretion of the ~~bureau of license and permit services~~ division of construction and business services, in cases where there are to be no further uses of any such structures and no openings of any kind are to be left and to remain in the sidewalk over the subsidewalk space, or where the vault used in connection with any opening does not exceed fifteen (15) feet in depth and the sidewalk over it is supported at all times as approved by the administrator ~~as assigned by the deputy director of the bureau~~ division.

#### **Sec. 645-557. Substitution of permit and bond.**

Whenever any person holding a contract and permit issued pursuant to this division, which permit has been issued under the terms of any resolution of the board of public works previously in force, the conditions of which have been and are now being fully complied with, shall apply for a new permit under this division and shall desire to have the permit or contract previously entered into canceled, the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services, upon issuing a new permit and approving a new bond, may cancel the old permit and bond as to any liability thereunder arising after the date of the issuance of the new permit and bond, but the prior contract and permit, and the bond given therewith, shall all remain in full force and effect as to all rights, obligations and liabilities accruing thereunder, including all amounts due the city for fees or anything else under the permit and bond up to the time of such cancellation.

#### **Sec. 645-558. Protection of openings.**

(a) Every opening for access to and use of any vault, coalhole, chute or other aperture that is made in the sidewalk over such subarea for the use of the premises, other than fixed gratings used only for light and air, shall be covered with a substantial, heavy iron lid or cover, having a rough surface and so placed, seated and maintained as to cover such opening and remain securely therein at all times when not removed for use of the area beneath. The entire construction of such coalholes, vaults and covers therefor shall be subject to the continued inspection, supervision and orders of the ~~division of inspections and the bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services so as to secure the safety of the public when passing over such covers and places.

(b) No person shall remove or place and leave insecurely, or cause, procure or permit to be removed or to be insecurely placed or left, so that it can be moved in its flange or seat or so as to tilt when stepped upon, any cover of any coalhole, vault, chute or other opening in or under any public way or public place. However, nothing in this subsection shall prevent the owner or occupant of the building with which such coalhole, vault, chute or opening is connected from removing the cover at any time for the proper purpose and use of such opening, either for repairs thereto or for removing or delivering anything therein, in case he or she then encloses and guards the opening or aperture and keeps it enclosed and guarded with a strong box or barrier at least twenty-four (24) inches high, firmly and securely made, and also places and maintains lights, when dark, as required for work on streets. During deliveries of anything through such opening, or during repairs thereto, some person shall remain stationed thereat to safeguard the same at all times while the cover is removed, and unless there at all such times, the cover shall be replaced.

(c) It shall be unlawful for any person owning or using any coalhole or vault, or any sidewalk lift, outside stairway, chute or other opening in any public sidewalk, to allow it to remain uncovered or opened, except while being

repaired or while it is actually being used for the purpose of entrance or exit, or for the purpose of introducing or removing any article through such opening, and except while protected or guarded.

**Sec. 645-559. Remedial action for structural safety.**

Whenever any coalhole, vault, chute or elevator in or under any sidewalk, or any aperture constructed in any sidewalk for such use or any other purpose, is not covered or secured as required by this division or, in the opinion of the deputy director of the department of ~~code enforcement~~ business and neighborhood services division of ~~inspections~~ construction and business services, is unsafe or inconvenient for public travel; or when any other type of such structures referred to in this division, located on, beneath or over any public way or place, becomes unsafe, the division of ~~inspections~~ construction and business services may order the opening to be placed in a safe condition as approved by it. If the repairs are not done within the time prescribed by such order, the division of ~~inspections~~ construction and business services may refer the matter to the department of public works to make the repairs and changes or, if necessary, to remove the opening, and the expense thereof shall be charged against and collected from such owner or person in possession of the premises and of such appurtenances and accessories thereto.

**Sec. 645-560. Care of sidewalks.**

Every person using any portion of the space under any sidewalk shall at all times keep the sidewalk securely supported and in good condition and repair in any portions connected with the subsurface uses, and clear and free from all dirt, filth or other obstructions or encumbrances arising from such uses. All repairing and cleaning shall be done in accordance with the regulations of the board of public works or other city authorities, and the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services may revoke the permit for failure to comply with any provision of this section.

**Sec. 645-571. Definitions.**

For the purpose of this division, the following words shall have the definitions ascribed to them in this section.

*Department* means the department of public works.

~~Bureau of license and permit services~~ *Division of construction and business services* or ~~bureau~~ *division* means the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services.

~~Division of inspections~~ means the ~~division of inspections~~ division of construction and business services of the ~~department of code enforcement~~.

*Encroachment* means an intrusion by an inanimate object on, under, over, or upon the public right-of-way. However, the following intrusions shall not be deemed to be an encroachment:

- (1) Motor vehicles, bicycles, and similar devices that are regularly moved from place to place;
- (2) Landscaping for which a permit has been secured pursuant to Chapter 701 of this Code;
- (3) Temporary signs advertising the sale of real estate that comply with zoning restrictions;
- (4) Pipes, conduits, wires, fiber optic lines, antennae, poles, ducts, and other like fixtures and appurtenances that are owned and used by a public utility and that are used in connection with transmitting, receiving, distributing, offering, and providing utility services and that are registered in accordance with Chapter 645 of this Code; and
- (5) Pipes, conduits, wires, fiber optic lines and other like fixtures and appurtenances that are owned by the landowner and are used to receive utility services from a public utility or from the City of Indianapolis.

If one (1) or more encroaching objects are attached to and from a part of the same structure or thing, taken collectively, they shall be considered as only one (1) encroachment.

**Sec. 645-572. Jurisdiction; all encroachments regulated.**

(a) The ~~bureau of license and permit services~~ division of construction and business services has the authority to license any encroachment.

(b) All encroachments are regulated by this division, including types of encroachments that are exempted by a regulation adopted under section 645-581 from the requirement that a written license document be secured.

(c) Notwithstanding the preceding portions of this section, an encroachment of more than one (1) year may not be licensed if said encroachment is subject to the grant of a franchise as authorized elsewhere in this Code or is the subject matter of a lease or operating agreement between the city and a third party.

**Sec. 645-573. When license required.**

No person shall maintain any encroachment without first:

- (1) Having received a written license document therefor from the ~~bureau of license and permit services~~ division of construction and business services in accordance with the provisions of this division; or
- (2) Complying with the provisions of section 645-581 for a license allowed without documentation.

**Sec. 645-574. Petition for license.**

Any person who desires to maintain an encroachment shall file a petition with the ~~bureau of license and permit services~~ division of construction and business services on such forms as the ~~bureau~~ division may prescribe, requesting that the ~~bureau~~ division approve a license permitting the encroachment, specifically identifying the property or properties affected, and outlining the circumstances giving rise to the need for the license.

**Sec. 645-575. Investigation of petition; recommendation as to license.**

(a) Upon the filing of a petition for a license required by this division, the ~~bureau of license and permit services~~ division of construction and business services shall cause an investigation of the request and of the circumstances enumerated in such petition to be made. Upon completion of the investigation, such ~~bureau~~ division shall either grant or deny the license and if granted, specify the term and conditions of the license.

(b) No person (even a person who holds property rights in the right-of-way or in property abutting the right-of-way) has any property right to an encroachment license.

**Sec. 645-576. Conditions of license.**

(a) In granting any license under this division, the ~~bureau of license and permit services~~ division of construction and business services may attach such reasonable conditions to the license as it determines to be in the interest of the public health, safety and welfare.

(b) No property right vests in the holder of an encroachment license through the granting of the encroachment license, irrespective of the length of the term of the license. The holder of the encroachment license has no property right to the continued existence of the encroachment license or the renewal of the license.

**Sec. 645-577. Term.**

All license documents issued by the ~~bureau of license and permit services~~ division of construction and business services under this division, unless granted for a lesser determinate period, may be for a term of up to twenty (20) years dating from the date of their issuance.

**Sec. 645-578. Appeal from action of department.**

Within thirty (30) days after any action of the ~~bureau of license and permit services~~ division of construction and business services in granting, refusing to grant or revoking any license required by this division, any person, including the corporation counsel acting for and on behalf of the city, may appeal under the provisions established in Article IV of Chapter 801 of the code.

**Sec. 645-579. Application and license fees.**

(a) Each petition to maintain an encroachment shall be accompanied by an application fee provided in section 131-501 of the Code.

(b) If the ~~bureau of license and permit services~~ division of construction and business services determines that a valuable consideration will be received by the city as a result of the encroachment, the administrator as assigned by the deputy director of the ~~bureau~~ division may waive the license fee provided in this section. Except for the waiver of license fees for individual newsracks under Article VIII of this chapter, the waiver shall be supported by a written finding identifying the consideration and indicating its value to the city.

**Sec. 645-580. Enforcement.**

In addition to and not by way of limitation of any other provision of this division, the ~~bureau of license and permit services~~ division of construction and business services is authorized and empowered in behalf of the city to enforce this article by any appropriate remedy at law or in equity, or both, in order to effectively and affirmatively preclude any violations hereof.

**Sec. 645-581. Content of regulations.**

The board of public works may, at its discretion, in accordance with the procedures specified in Chapter 141 of the Code, adopt regulations deemed necessary and appropriate to carry out the provisions of this division, including, but not limited to, regulations establishing:

- (1) A procedure for filing a license petition;
- (2) Types of encroachments for which a license is allowed without documentation; such encroachments shall be limited to those that have only a minor effect on the use of the right-of-way and can be installed without blocking any portion of the street; regulations establishing these types of encroachments shall, without limitation, provide:
  - a. That such encroachments are automatically licensed as they exist on the effective date of the regulation if they are created in compliance with the requirements and standards specified by the regulation;
  - b. With automatic licensure it is not necessary for the encroachment owner to file a petition for an encroachment license or receive a license document to be licensed under this regulation; and
  - c. The length of the term or terms of such encroachments;
- (3) A procedure for amending or renewing a license;
- (4) Standards and requirements for construction or use of encroachments; and
- (5) A procedure for securing a variance from license standards and requirements. If the regulation authorizes the variance to be granted by the administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services, it shall provide for an appeal of the decision to the director of the department of ~~code enforcement~~ business and neighborhood services.

**Sec. 645-582. Fees.**

The board of ~~code enforcement~~ business and neighborhood services may, in accordance with the procedures specified in Chapter 141 of the Code, amend, alter, or revise the fees specified in section 645-579 or establish new fees or categories of fees.

**Sec. 645-583. Termination of encroachment license; removal of an encroachment.**

(a) The ~~bureau of license and permit services~~ division of construction and business services may at any time terminate an encroachment license, whether the encroachment is based on a written document issued by such ~~bureau~~ division or allowed without documentation. The owner shall be responsible for removing such an encroachment. The city shall not be responsible for any costs related to the termination of the encroachment privilege; for example, the city shall not be responsible for the cost of removal of the encroachment or any diminution of value of the owner's property associated with the removal. Such department shall allow the owner sixty (60) days to remove the encroachment. However, if the terms of the encroachment license document specify a shorter or longer period removal time, the specified time shall be allowed for removal.

(b) If the owner does not remove an encroachment within the time allowed under section 645-583(a), the division of ~~inspections~~ construction and business services may, without further notice, remove forthwith said

encroachment and shall be entitled to recover its costs and expenses, including without limitation, reasonable attorney fees.

**Sec. 645-601. Applicability of state statutes.**

Whenever any of the matters relating to improvements, under private contract, of sidewalks, driveways or curbs, or the connection of private premises with public sewers and public utility service lines, and the control thereof by the department of ~~code enforcement~~ business and neighborhood services or by any other board are covered and controlled in all respects by any state statute, all such work so controlled shall conform to and all proceedings shall be governed thereby, but may also be supplemented by this Code. However, if and whenever any such statutes are repealed or amended so as not to cover all such matters or part thereof, then the provisions applicable to the matters set out in this chapter or other city ordinance shall be thereupon revived and again become effective in all or any of such matters, whether or not such statutory provisions, as herein incorporated by reference thereto, continue in effect for that purpose.

**Sec. 645-602. Permit required; standards generally.**

No person, including governmental bodies other than the city, shall cause any public way in the city to be altered, paved, widened, reconstructed or resurfaced without first obtaining a permit therefor from the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services, which permit may be issued by the ~~bureau~~ division upon payment of the required fees. Such improvement shall conform to the established highway grades and to the standard plans and specifications for that kind of work, as adopted by the board of public works.

**Sec. 645-603. Duty of abutting owners to connect with subsurface utilities.**

It shall be the duty of owners of property abutting on a street or public place, which is to be permanently improved, repaired or altered, to provide for, install and make private connections for the use of their premises with an existing or for a later sewer or drain laid in the street, with all water, gas and other like types of public utility services, and make all necessary repairs, extensions, relocations, changes or replacements thereof, and of any accessories thereto. Such owners shall bring the utilities from the places of connection in the street or public place to points within the curb or roadway line and up to the property line of the street or public place, in such manner and time as the ~~bureau of license and permit services~~ division of construction and business services shall designate, order and require, as in instances of such improvements by the city itself.

**Sec. 645-604. Manner of doing work generally; bond.**

All work subject to this article shall be done in all respects in the manner required when such work is done by or for the city, except for the requirement of bids for the contract, and shall be completed within thirty (30) days after the confirmation of any resolution by the board of public works, or the letting of any private contract, unless the time is extended by order of the board of public works. A performance and maintenance bond, as required by this chapter for excavations, shall be executed to the city by any person doing such work himself or under private contract, and any person doing the work in any manner shall also agree to indemnify the city and all other persons against all damages, losses, claims, judgments and expenses arising from such work.

**Sec. 645-605. Duty to inspect, report and repair defects in public ways.**

(a) The division of ~~inspections~~ construction and business services of the department of ~~code enforcement~~ business and neighborhood services shall inspect the streets, sidewalks and public places of the city, and the department of public works shall repair and maintain the streets, sidewalks and public places of the city in a reasonably safe condition so far as the extent thereof and the facilities available therefor render practicable, to promote the security of those who travel over them by foot and vehicles, in the usual and accustomed modes and while themselves exercising reasonable care. It shall also be the duty of all city police officers and firemen to observe all streets, sidewalks, bridges and other public places over which they pass in the course of their duties and to make a record of and report promptly to the city traffic captain all defects and dangerous conditions they observe, and the traffic captain shall promptly report such findings in writing to the division of ~~inspections~~ construction and business services.

(b) The division of ~~inspections~~ construction and business services and the department of public works shall keep suitable persons employed, as the appropriations therefor permit, who respectively shall inspect, and cause to be repaired, dangerous or material defects and places on the streets, sidewalks, bridges and all other public places discovered by or reported to them. Any defective public ways of any kind reported to the department of public works or coming to its knowledge shall be repaired in a reasonable time; however, there shall be no duty, except when so

ordered or when the need is evident, on the part of the department of public works and the city employees to repair every slight and trivial defect, uneven place and crack in the pavements, sidewalks, or portions of any street, or public place, which appear unlikely to cause injuries, but they shall use due diligence to remove all such defects and repair all such portions of the public ways and places known by them or reported to them that are reasonably sufficient in kind and extent to be dangerous for the general public in traveling over the same in the usual and accustomed modes while using their own faculties with due care.

**Sec. 645-606. Barricading streets under construction or repair.**

(a) It shall be lawful for any person employed by the city or for any contractor who is engaged in the construction, repair, paving, repaving or any other authorized work on any street or public place in the city to place proper barricades across the street and to close all or any portions thereof for the purpose of protecting the public and preserving the surface of the pavement, which is being or is about to be constructed or repaired, until the work is completed and safe and suitable for the public use thereof.

(b) Barricades permitted by subsection (a), and, when dark, lights, shall be placed thereat; all to be maintained by the person doing the work, as provided in this Code for other work upon the public streets or places.

(c) All barricades authorized by subsection (a), when the work is fully completed, shall be removed by the person who placed them on the street, or by employees of the city or the contractor, as soon as practicable and without notice; or shall be removed immediately upon order of the ~~bureau of license and permit services~~ division of construction and business services.

(d) No person, without the written consent of the administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services, who is supervising street construction, repair or other work shall throw down, displace, damage, tamper with or remove any barricade or light placed in position during the process of such work.

(e) No person, without being so authorized by a person supervising work subject to this article, while barricades are in place during the progress of the work, shall drive through, around or against such barricades, nor shall any pedestrian walk over or around them; nor shall any person do any act to damage the freshly laid pavement or mar the surface thereof in any way, or interfere with such work, materials or equipment.

**Sec. 645-607. Sidewalks.**

(a) No person shall remove, construct, reconstruct, establish, alter or repair any sidewalk within the city under a private contract, without first obtaining a permit therefor from the ~~bureau of license and permit services~~ division of construction and business services and paying the required fees, as authorized by this Code. Any person desiring a permit required by this subsection shall first submit plans and specifications therefor to the ~~bureau of license and permit services~~ division of construction and business services, who may either approve the plans and specifications or require them to be altered, after which the owner or contractor shall apply to the ~~bureau of license and permit services~~ division of construction and business services for the permit for such work.

(b) A performance and maintenance bond, as required for excavations in streets, shall be required of any person doing such work, and he or she shall agree to indemnify the city and all other persons, as required for street improvements. In all instances, the ~~bureau of license and permit services~~ division of construction and business services may require such permittee to carry a sufficient public liability insurance policy in such amount as it determines to be necessary to protect the public, as a condition to issuing any permit under subsection (a).

(c) No sidewalk shall be constructed, reconstructed, altered or repaired so as to prevent free and unobstructed passage thereon for any longer than necessary, or in such manner as to interfere with the proper drainage and grading of the street.

(d) All such work shall be subject to the approval of the ~~bureau of license and permit services~~ division of construction and business services after consultation with the engineering division of the department of public works, and to further orders thereon. All matters of procedure pertaining thereto, as now or at any time provided for by statute, shall be followed so far as applicable, and are hereby adopted by this reference thereto as a part of this subsection, to continue, in the event any such statutes should be amended or repealed without continuing such or similar provisions.

(e) Any person causing a sidewalk to be built, constructed, reconstructed, altered, repaired or used contrary to such plans and specifications, as approved, or in violation of any provision of this chapter, or of state law, upon

conviction therefor, may be fined as provided generally for violations of this Code; also, such work may be ordered to be suspended and to be constructed or reconstructed at such person's expense.

**Sec. 645-802. Definitions.**

As used in this article, the following terms shall have the meanings ascribed to them in this section.

*Abandoned* means any individual newsrack, or compartment of a modular newsrack, that does not contain the newspaper or other publication specified therefor for more than four (4) consecutive days for a daily publication, eight (8) consecutive days for a weekly publication, sixteen (16) consecutive days for a biweekly publication, thirty-two (32) days for a monthly publication, or sixty-four (64) days for a bimonthly publication. A newsstand shall be deemed abandoned if it is not open for business for a period of more than seven (7) consecutive days.

*Compartment* means the individual space within a modular newsrack that dispenses one (1) newspaper or other publication, including the door, coin return mechanism and associated hardware.

*Director* means the director of the department of ~~code enforcement~~ business and neighborhood services.

~~Bureau of license and permit services~~ *Division of construction and business services or bureau division* means the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services.

*Individual newsrack* means and includes a newsrack designed with a single enclosed compartment to accommodate at any one (1) time the display, sale, or distribution of like copies of a single newspaper or other publication, or that has more than one (1) compartment but does not exceed the dimensions of an individual newsrack as provided in sections 645-813 or 645-814 of this Code.

*Modular newsrack* means a newsrack that is designed with multiple separate enclosed compartments to accommodate at any one (1) time the display, sale, or distribution of multiple distinct and separate newspapers or other publications, and that exceeds the dimensions of an individual newsrack as provided in sections 645-813 or 645-814 of this Code.

*Modular newsrack district* means and includes all public rights-of-way located within the area bounded on the north by the north right-of-way line of New York Street, on the east by the east right-of-way line of Alabama Street, on the south by the north right-of-way line of the Consolidated Rail Corporation (Conrail) that runs through Union Station, and on the west by the west right-of-way line of West Street.

*Modular newsrack provider* means the person or other legal entity who is authorized under section 645-811 of this Code to place and maintain modular newsracks upon the public rights-of-way.

*Newspapers and other publications* means and includes newspapers, periodicals, advertising circulars, and all other printed materials that may be distributed through the use of newsracks.

*Newsrack* means any unmanned, self-service or coin-operated box, container, storage unit or other dispenser located in or upon, or projecting onto, into, or over, any part of the public rights-of-way, and which is installed, used or maintained for the display, sale, or distribution of newspapers and other publications. Unless the context clearly indicates otherwise, newsrack includes both individual newsracks and modular newsracks.

*Newsstand* means any manned building, stand, booth or other structure located in or upon the public rights-of-way, and from which an attendant displays, sells or distributes newspapers or other publications.

*Owner* means the person or other legal entity that either owns a newsrack, or is responsible for its operation and maintenance.

*Public rights-of-way* means and includes all highways, streets, alleys, sidewalks, and other real property or easements that are owned or controlled by the city or county, including the areas above and below such easements, and that are reserved or used for pedestrian or vehicular traffic.

*Publisher* means the person or other legal entity selling, displaying or distributing newspapers or other publications in a newsrack.



*Regional Center* means and includes all public rights-of-way located in the Regional Center, as established in section ~~735-600~~ 742-201 of the Code.

**Sec. 645-811. Provision of modular newsracks.**

(a) In furtherance of the purposes of this chapter, the city by and through the ~~bureau of license and permit services~~ division of construction and business services shall enter into a contract with one (1) modular newsrack provider, or otherwise provide, for the placement and maintenance of modular newsracks in the modular newsrack district; and the city may enter into contracts with one (1) or more modular newsrack providers, or otherwise provide, for the placement and maintenance of modular newsracks in other areas of the city.

After the year 2002, the total number of compartments in modular newsracks in the modular newsrack district may be increased or decreased only on the basis of market supply or demand, or consistent with the purposes stated in section 645-801 of this Code. The contract shall also ensure that modular newsracks shall be placed in locations throughout the district that afford easy, convenient service to pedestrians, but that do not obstruct or interfere with access to abutting properties, and that do not impede or endanger pedestrian, bicycle or vehicle traffic.

(b) A contract under this section would include, but not be limited to, the following terms and conditions:

- (1) In consideration of the placement and maintenance of modular newsracks, the city shall grant to the modular newsrack provider a license with respect to the real property where the modular newsracks will be placed;
- (2) A detailed description and photograph or scale drawing of the modular newsrack, including its dimensions, number of separate compartments, and method of attachment to the public rights-of-way;
- (3) A scale drawing or site plan for each modular newsrack, showing its placement relative to existing buildings, curbs and other fixtures and appurtenances in the surrounding public rights-of-way for a minimum of twenty-five (25) feet in any direction; and
- (4) The terms of any contract between the modular newsrack provider and the publishers of such newspapers and other publications, including the method by which the modular newsrack provider determines the newspaper's or other publication's position within the modular newsrack.

(c) Prior to entering a contract under this section, the city may conduct such investigations, surveys, or test programs it deems reasonable or necessary to determine any of the following: whether modular newsracks would promote the stated purposes and requirements of this chapter; what different services, and modular newsrack styles and features, are offered by prospective modular newsrack providers; the degree of public acceptance and use of modular newsracks; and the areas and exact locations where modular newsracks may be placed.

(d) After the ~~bureau~~ division and a prospective modular newsrack provider have agreed upon the terms and conditions of a contract under this section, but prior to entering the contract, the ~~bureau~~ division shall publish notice in accordance with IC 5-3-1 of a public hearing to be held by the ~~bureau~~ division. The notice shall appear at least ten (10) days before the hearing is held, and state the date, place, and hour of the hearing, and a summary of the principal terms of the contract. The proposed contract shall be available for public inspection from the date of publication of notice through the end of the public hearing. The sole purpose of the public hearing is to receive public comment on the proposed contract, and all persons are entitled to be heard as to whether the city should enter into the contract. Based upon the public comments received at the hearing, and such other matters as the ~~bureau~~ division may consider, the proposed contract may be modified prior to its execution.

(e) It shall be unlawful to place or maintain a modular newsrack upon the public rights-of-way, except as provided in this section.

**Sec. 645-815. Attachment of individual newsracks to the public rights-of-way; encroachment license required.**

(a) Each individual newsrack that is located in the Regional Center on January 1, 2001, or thereafter shall be bolted or attached permanently to the public rights-of-way in such a manner as to meet American Society of Civil Engineers (ASCE) wind load calculations, as evidenced by a certified engineer's report, including calculations and a certified engineer's drawing defining and/or illustrating the method of attachment to be used to meet or exceed a maximum of one hundred ten (110) mile per hour wind velocity.

(b) Each individual newsrack that is bolted or attached permanently to the public rights-of-way shall be licensed as an encroachment under the provisions of Article V, Division 3 of this chapter; however, because the city receives a

valuable consideration from all such newsracks, the administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services shall waive the encroachment license fees for such newsracks, as provided in section 645-579 of this Code.

(c) Within ten (10) days after the owner of an individual newsrack files a petition for an encroachment license under Article V, Division 3 of this chapter, the ~~bureau of license and permit services~~ division of construction and business services shall complete its investigation and issue to the owner either the license, or a written notice of denial. A petition for an individual newsrack encroachment license may be denied only for the reason that:

- (1) The petition for the license contains incorrect information; or
- (2) The placement of an individual newsrack on the public rights-of-way, as requested in the petition, does not comply with this division.

If such ~~bureau~~ division denies an encroachment license petition for an individual newsrack, the written notice shall state the specific reasons for the denial, and what specific actions, if any, would be necessary for the license to be issued.

(d) An appeal under section 645-578 of this Code with regard to an individual newsrack encroachment license or petition therefor shall be heard within twenty (20) days following receipt of the appeal, unless the parties mutually agree to an extension of this time period. The parties shall be given at least ten (10) days advance written notice of the time and place of the hearing, and a reasonable opportunity to participate in the hearing. The board of ~~code enforcement~~ business and neighborhood services shall render its decision in writing within five (5) days after the hearing; a copy of the decision shall be delivered to the parties, and a certified copy shall be kept on file by the secretary of the board of ~~code enforcement~~ business and neighborhood services. The decision of such board may be appealed to a court of competent jurisdiction within thirty (30) days following the date the decision was issued, and such court, pursuant to its rules of procedure, shall provide the opportunity for a prompt hearing and prompt decision by a judicial officer. Failure to file an appeal within the time period provided by this subsection shall constitute a waiver of the right to appeal.

(e) Within five (5) days following the expiration of an encroachment license for an individual newsrack, the owner shall remove the newsrack and cause any necessary restoration or repair of the public rights-of-way to be made.

#### **DIVISION 3. - NEWSSTANDS**

##### **Sec. 645-832. Permit required.**

It shall be unlawful for any person to erect, locate, construct, maintain or operate a newsstand on any public rights-of-way without first obtaining a newsstand permit therefor from the ~~bureau of license and permit services~~ division of construction and business services. No charge shall be made for the permit, unless otherwise required by this Code. A permittee under this section shall not be required to obtain a transient merchant activity license under Chapter 987 of this Code, or an encroachment license under Article V, Division 3 of this chapter, for a newsstand.

##### **Sec. 645-833. Application; issuance or denial.**

(a) Application for a permit required by this division shall be made to the ~~bureau of license and permit services~~ division of construction and business services on such form as required and provided by the ~~bureau of license and permit services~~ division of construction and business services, and shall be signed by the applicant. The application shall contain the following information:

- (1) The name and address of the applicant;
- (2) A scale drawing or site plan showing the proposed location of the newsstand relative to existing buildings, curbs and other fixtures and appurtenances in the surrounding public rights-of-way for a minimum of twenty-five (25) feet in any direction;
- (3) A detailed description of the size, construction materials, and appearance of the proposed newsstand, including a scale drawing or color photograph, and the method by which the newsstand would be attached to the public rights-of-way;
- (4) A statement that the permit shall be subject to the conditions and provisions contained therein and to all ordinances and regulations of the city; and

- (5) Such other information as the administrator as assigned by the deputy director of the ~~bureau~~ division deems appropriate and necessary.

(b) Within twenty (20) days after the director receives an application under this section, the ~~bureau~~ division shall issue to the applicant either the permit, or a written notice of denial of the application. An application for a newsstand permit may be denied only for the reason that:

- (1) The application for the permit contains incorrect information; or
- (2) The placement of a newsstand on the public rights-of-way, as requested in the application, does not comply with this division, or is prohibited by law.

If the ~~bureau~~ division denies a newsstand permit application, the written notice shall state the reasons for the denial, and specify what actions, if any, would be necessary for the permit to be issued.

(c) The denial of an application for a newsstand permit may be appealed to a court of competent jurisdiction within thirty (30) days following the date the denial was issued, and such court, pursuant to its rules of procedure, shall provide the opportunity for a prompt hearing and prompt decision by a judicial officer. Failure to file an appeal within the time period provided by this subsection shall constitute a waiver of the right to appeal.

**Sec. 645-834. Term and renewal; conditions.**

(a) A newsstand permit shall have a term of one (1) year, expiring on the last day of December of each year, and may be renewed upon the same terms and conditions. Such permit shall state the name and address of the permittee and the location of the newsstand, and be posted in a prominent location on the exterior of the newsstand.

(b) A newsstand permit shall be issued upon the condition that the permittee shall:

- (1) Conduct and maintain the newsstand in such a manner that it will not create a nuisance or become inimical to the public welfare, or detract from the aesthetic character of the surrounding area;
- (2) Indemnify and save the city harmless against all liability that may result to the city in consequence of the granting of the permit and maintenance and use of the newsstand;
- (3) Provide to the ~~bureau of license and permit services~~ division of construction and business services a current certificate of public liability insurance in coverage amounts established by the corporation counsel, insuring the permittee and naming the city as an additional insured party throughout the term of the permit; and
- (4) Comply with all laws statutes, ordinances, and regulations promulgated thereunder, as well as any pertinent orders and decisions of public officials.

In addition, the ~~bureau~~ division may make the permit subject to any reasonable conditions permitted by law, and which promote the stated purposes of this article.

(c) Within ten (10) days following the expiration or revocation of a newsstand permit, the owner shall remove the newsstand, and cause any necessary restoration or repair of the public right-of-way to be made; provided, however, that if the revocation of a permit has been appealed to a court of competent jurisdiction, then the removal of the newsstand shall be stayed pending final disposition of the judicial proceedings.

**Sec. 961-211. Restrictions on operation.**

(a) Each vendor's cart licensee, and his or her agents and employees, shall comply with the restrictions on cart operation provided in this section.

(b) Limitations on selling include the following:

- (1) Only food may be carried on or sold from a licensed food cart, only flowers from a licensed flower cart, only frozen food from a licensed frozen food cart, and only merchandise from a licensed merchandise cart;
- (2) Such retail sales shall not be accomplished by crying out or hawking;

- (3) A device may not be used that would amplify sound, and in any area not in a commercial transaction zone, attention may not be drawn to such retail sales by any aural means or a light-producing device;
- (4) Such retail sales may not be made to any person in or on any motorized vehicle; and
- (5) Beverages, dispensed in disposable cans, shall have any separable opening tabs removed at the time the cans are sold, unless otherwise requested by the purchaser.

(c) Prohibited locations include the following:

- (1) No cart may be located in any public park or plaza, without written authorization from the governmental agency with general jurisdiction or control over such park or plaza;
- (2) The operator of a cart may not dispense food on the same side of the street within fifty (50) feet of a primary entry way into a ground level retail food establishment;
- (3) No cart may be located nor any such retail sales be made in that part of a right-of-way utilized for motor vehicle traffic (commonly referred to as a street), a street median strip or an alleyway;
- (4) No cart may be placed nor may such retail sales be made within twenty (20) feet of any posted bus stop, taxi stand, crosswalk, driveway or alleyway, within twenty (20) feet of the point at which the right-of-way lines of two (2) or more streets intersect or within six (6) feet of any building entrance, display window or walk-up window;
- (5) No cart may be parked or located nor may food, frozen food, flowers or merchandise be dispensed in a manner that would significantly impede or prevent the use of any city property, or that would endanger the safety or property of the public;
- (6) A cart with a franchise zone license shall be operated only within the franchise zone allocated under section 961-303, or in any area not designated a franchise zone or commercial transaction zone; a cart with a commercial transaction zone license shall be operated only within the designated commercial transaction zone; and a cart with a special event license shall be operated only within the geographic boundaries of the special event; and
- (7) The location of each merchandise vendor's cart not in a commercial transaction zone shall be approved by the license administrator.

(d) Operational requirements include the following:

- (1) The licensee, his or her agents and employees shall be required to obey the commands of law enforcement officers or firemen with respect to activity carried out on city property, including, where possible, the removal of the cart and cessation of such retail sales;
- (2) Wheeled carts not located in a commercial transaction zone must be removed from city property when such retail sales are not being conducted;
- (3) No wheeled cart may be permanently or temporarily affixed to any fixed object, and no stand may be permanently or temporarily affixed to any object above ground level, including but not limited to buildings, trees, signs, telephone poles, streetlight poles, traffic signal poles or fire hydrants;
- (4) Carts may be placed and any such retail sales may be made only on sidewalks that provide at least fourteen (14) feet of width from the curb line to the property line; provided that, a person licensed under this article may petition the license administrator to allow operation of a cart on a specified sidewalk having a width of less than fourteen (14) feet; such petition may be approved by the license administrator only after the department of public works and the department of ~~code enforcement~~ business and neighborhood services have approved the petition;
- (5) Each cart is to be operated by no more than three (3) persons, and shall not be left unattended;
- (6) No cart may be used to advertise any product or service that is not authorized to be sold from that cart; and

- (7) Carts not located in a commercial transaction zone may not make use of any public or private electrical outlet while in operation or while located on city property.

(e) General requirements include the following:

- (1) Efforts shall be made by the licensee to protect city property against littering; each cart must have an adequate trash receptacle that is emptied sufficiently often to allow disposal of litter and waste by the public at any time; the trash receptacle on the cart shall not be emptied into trash receptacles owned by the city; and liquid from a cart may not be discharged on or in a city sewer or drain or elsewhere on city property, nor on private property without the express written consent of the owner thereof;
- (2) Pedestrians shall not be exposed to any undue safety or health hazard nor shall a public nuisance be created;
- (3) Each cart shall be maintained free and clear of dirt, and finishes shall not be chipped, faded or unduly marred;
- (4) Foods that present a substantial likelihood that liquid matter, particles or part of the food will drop to the street or sidewalk during the process of carrying or eating the food shall be sold in proper containers; and
- (5) All carts licensed to sell food must place a nonporous material on the sidewalk beneath their carts in such a manner as to prevent spillage from the cart, stains or other damage to the area around the carts. Acceptable materials include artificial turf, grass mats, or indoor/outdoor carpeting.

**Sec. 961-213. Inspection.**

Each licensee and employee of a licensee shall comply at all times with all statutes, ordinances and regulations relating to the operation of the carts and shall allow an inspection by persons assigned to such duty by the health and hospital corporation, a department of the state or the division of ~~inspections~~ construction and business services. If, upon inspection, any food, frozen food, flowers or merchandise shall be found unwholesome, stale, diseased, spoiled or otherwise unfit for its intended purpose, the products shall forthwith be condemned and removed by the licensee from the cart or other place where found and destroyed; such products shall be neither sold nor given away.

**Sec. 961-604. Appeals to board of ~~code enforcement~~ business and neighborhood services.**

A decision of the license administrator made under sections 961-204, 961-304, 961-601 or 961-602 is appealable to the board of ~~code enforcement~~ business and neighborhood services pursuant to section 801-434 of the Code. Other decisions made by the license administrator under this chapter are not appealable to the board of ~~code enforcement~~ business and neighborhood services.

**Sec. 706-104. Declaration of need; notice.**

(a) Without disclosing trade secrets or information vital to the security of its water system, Citizens Energy Group shall certify to the department of ~~code enforcement~~ business and neighborhood services and the mayor a detailed description of the findings, conditions, and other circumstances that support Citizens Energy Group's determination that a water alert, water warning, or water emergency should be declared and the estimated impact of a failure to declare a water alert, water warning, or water emergency and that the certification be posted on Citizens Energy Group/~~Code enforcement~~ business and neighborhood services websites.

(b) Upon being notified by Citizens Energy Group that the water system is in a condition of water shortage, the mayor may declare the existence of a water alert, water warning or water emergency, whereupon the respective water conservation measures described in section 706-105 of this chapter shall apply until the water alert, warning or emergency is terminated. Whenever the mayor finds that some or all of the conditions that gave rise to the declaration of a water alert, water warning or water emergency no longer exist, the mayor may declare the water alert, water warning or water emergency terminated.

(c) Notice of the declaration or termination of a water alert, water warning or water emergency shall be made by publication in a newspaper of general circulation. Notice shall be deemed effective upon publication.

**Sec. 706-105. Mandatory water conservation; exemptions.**

(a) During a water alert it shall be unlawful for a water user to cause, permit, allow, or engage in the sprinkling, watering, or irrigating of grass more than two (2) days per week. Water users with odd number property

addresses may sprinkle, water, or irrigate grass on Monday and Thursday. Water users with even number property addresses may sprinkle, water, or irrigate grass on Tuesday and Friday. No sprinkling, water, or irrigating of grass shall be permitted by any water user on Sunday, Wednesday or Saturday.

(b) During a water warning, it shall be unlawful for a water user to cause, permit, allow, or engage in the sprinkling, watering, or irrigating of grass; provided, however, that vegetable gardens, flower gardens, and trees less than three (3) years old may be watered every other day by container, hand held hose equipped with a shut-off nozzle, or drip irrigation system.

(c) During a water emergency, it shall be unlawful for a water user to cause, permit, allow, or engage in any of the following actions:

- (1) Outdoor watering, including but not limited to the sprinkling, watering, or irrigating of grass; provided, however, that vegetable gardens, flower gardens, and trees less than three (3) years old may be watered every other day by container, hand held hose equipped with a shut off nozzle, or drip irrigation system;
- (2) Washing cars, trucks, trailers, mobile homes, railroad cars or any other type of mobile equipment, except as required by applicable local, state, or federal law for health or safety reasons;
- (3) Using water to clean sidewalks, driveways, paved areas, structures, buildings, or other outdoor surfaces;
- (4) Filling empty swimming pools with water from Citizens Energy Group;
- (5) Using hydrants except for fire suppression or as otherwise directed by Citizens Energy Group; and
- (6) Operating water fountains that are non-recycling.

(d) The following water users and water uses shall be exempt from the prohibitions contained in subsections (a), (b), and (c) of this section:

- (1) Nurseries, provided water use is limited to the amount essential to preserve inventories; and
- (2) Any activity associated with the installation, repair, testing, or maintenance of an irrigation system.

(e) The following water users and water uses may be exempted by the mayor from the prohibitions contained in subsections (a), (b), and (c) of this section:

- (1) Automatic commercial car washes, including but not limited to automatic car washes operating within car dealerships, provided a majority of the water used is recycled;
- (2) Manual commercial car washes, including but not limited to manual car washes operating within car dealerships, provided only a handheld hose equipped with a shut-off nozzle is utilized;
- (3) Golf courses, provided that documented measures are taken to preserve the use of water, only watering tee boxes, greens, and fairways in the manner most efficient for the course;
- (4) Any watering of property owned or controlled by the department of parks and recreation, the department of public works, the capital improvement board, or the City of Indianapolis (pursuant to the city's heat relief plan) as directed by the mayor where such watering is necessary or appropriate for asset preservation;
- (5) Limited watering of in-season athletic fields for public safety, health, or welfare purposes;
- (6) Limited watering of new lawns or landscaping for construction projects with building permits issued by the department of ~~code enforcement~~ business and neighborhood services prior to the declaration of such water alert, warning, or emergency; and
- (7) Limited use of splash pad recreational watering systems or small temporary pools that have been filled by hand.

(f) The department of ~~code enforcement~~ business and neighborhood services shall have the authority to promulgate regulations related to the operation of the exceptions listed above.

**Sec. 706-106. Violations.**

(a) Each customer shall be responsible for compliance with section 706-105 of this chapter with respect to the premises where the customer receives water service. If the identity of the water user cannot be ascertained, the customer shall be prima facie liable for violations that occur on such premises.

(b) A person's first and second violations of section 703-105 in any twelve-month period shall be subject to an admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with chapter 103, article III, of the Code.

(c) With respect to violations not resolved under chapter 103, article III, of the Code, including a person's third and subsequent violations of section 703-105 in a twelve-month period, the department of ~~code enforcement~~ business and neighborhood services may refer the matter to the city prosecutor to file an enforcement action in court, or issue a notice of administrative hearing as provided in chapter 103, article V of the Code. Violations under this subsection are subject to the general penalties provided in section 103-3 of the Code; however, the penalty for each such violation shall not be less than five hundred dollars (\$500.00).

(d) All monies collected from violation of this chapter shall be deposited in the county general fund.

**Sec. 706-107. Enforcement.**

This chapter shall be enforced by the department of ~~code enforcement~~ business and neighborhood services.

**Sec. 701-1. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

*Department*, unless the context specifies or clearly indicates otherwise, means the department of ~~code enforcement~~ business and neighborhood services.

*Director*, unless the context specifies or clearly indicates otherwise, means the director of the department of ~~code enforcement~~ business and neighborhood services, or his or her designee.

~~*Bureau of license and permit services*~~ *Division of construction and business services* or ~~*bureau division*~~ means the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services.

*Flora* means all trees, shrubbery and other plants that grow to a height of more than twelve (12) inches, but expressly excluding weeds and grasses of all types.

*Occupant* means the person, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization or any owner, person, persons or entities who are from time to time in possession of or exercising dominion and control over any house or other structure located on private property.

*Owner* means any one (1) or more of the following:

- (1) The owner or owners in fee simple of a parcel of real estate, including the life tenant or tenants;
- (2) The record owner or owners as reflected by the most current records in the county assessor's office; or
- (3) The purchaser or purchasers of such real estate under any contract for the conditional sale thereof.

*Private property* means all real estate within the city, except real estate that is owned, leased, controlled or occupied by the state, the county, the city or any departments or agencies thereof.

*Tree*, when used by itself, means any woody, perennial plant and includes those having a single main stem that grows to a minimum height of over ten (10) feet.

**Sec. 701-2. Duty to enforce; prosecutions for violations.**

It shall be the duty of the department of ~~code enforcement~~ business and neighborhood services to enforce the provisions of this chapter, and prosecutions by the city for violations hereof may be initiated by the department, or the director through or in cooperation with the office of the city prosecutor.

**Sec. 701-3. Location; general supervision by department of public works and department of ~~code enforcement~~ business and neighborhood services.**

(a) The department of public works may adopt such reasonable rules and regulations for the location and control of flora in or upon all public streets, alleys, ways, places and parks in the city. Hereafter, no tree shall be planted in any public street, alley, way, place or park in the city less than fifty (50) feet from any other tree planted along the same street, alley, way, place or public park or at a distance of less than two (2) feet from any established sidewalk or curb bordering any public street, alley, way or place, except by written permission of or as may be otherwise determined by the department of ~~code enforcement~~ business and neighborhood services.

(b) The department of public works shall control all flora now growing, or at any time grown in or on any public street, alley, way, place or park and shall also control the maintenance, removal or relocation thereof. Also, the department of public works shall have the authority to perform trimming and cutting of flora in or obstructing any public street, alley or way as may be necessary or desirable to facilitate traffic movement and safety, or to provide unobstructed vision or free passage of pedestrians or motorists along the streets or public ways.

**Sec. 701-4. Permit required.**

(a) No person shall plant any shade or ornamental flora on or in any portion of a public street, alley, right-of-way, place or park in the city, unless the department, after consultation with the department of parks and recreation and the department of public works, shall have first approved the kind or variety thereof and designated the location therefor, and a special permit for such planting has been issued by the ~~bureau of license and permit services~~ division of construction and business services. Trees must be of high quality and suitable species to be planted on public grounds. Trees to be planted must be well-formed, have a straight trunk, evenly balanced crown, and healthy appearance. The department shall have the power to set forth any further specifications required and may alter methods of planting, reject any tree or tree species, or suspend the right of a permit holder to plant, for any reason and without advance notice. The department will determine tree pit depth and width, and whether fertilizer, peat moss or other additives are necessary. The department must have at least forty-eight (48) hours' advance notice prior to any excavation. The department shall have continuing control over any flora planted. Any permit required by the provisions hereof shall not obviate the requirements for obtaining any other permits or licenses required by any other ordinances or statutes of the state.

(b) Any flora planted pursuant to subsection (a) shall be watered, staked, wrapped, sprayed, trimmed or fenced by guards or gratings by the permit holder when deemed necessary by the department. Trees must be watered at least once per week in dry weather during the first year after planting. The permit holder shall guarantee the survival of each tree planted for one (1) year after the planting date. Any tree not surviving for one (1) year must be replaced, either by the permit holder or by the city, at the permit holder's expense. After a period of one (1) year, all flora planted becomes the property of the city and all care and maintenance becomes the responsibility of the city.

(c) No person shall perform any arboricultural work on any shade or ornamental flora on or in any portion of a public street, alley, right-of-way, place or park in the county, unless the ~~bureau of license and permit services~~ division of construction and business services shall have first granted a special permit indicating the approved activity on each designated flora. All work on city owned trees, including trimming, pruning, protecting, bracing, relocating, cultivating, spraying or removing, will be allowed only when permitted by the ~~bureau~~ division.

(d) For purposes of this chapter, any person obtaining an encroachment permit from the city for the sole purpose of planting any flora pursuant to this section will not be required to pay the encroachment license fee once the flora becomes the property of the city.

**Sec. 701-7. Injuring or trimming flora.**

(a) No person shall damage, remove, deaden, destroy, break, carve, cut, deface, trim or in any way injure or interfere with any flora that is located in or on any public street, alley, right-of-way, place or park within the city without the written consent of the ~~bureau of license and permit services~~ division of construction and business services first obtained, except as may be necessary in an emergency to remove or abate any dangerous or unsafe condition.



(b) No person owning or controlling any public utility lines that are upon, above or below the earth's surface and are within the right-of-way of any public street, alley, right-of-way, or place in the city shall trim any flora or cause it to be trimmed or its roots to be cut or excavate below the earth's surface within drip line feet of any existing flora without first having submitted to the department a plan of the work to be done and receiving a permit therefor.

**Sec. 701-8. Moving buildings where flora affected.**

(a) No person shall move any building or structure on, upon or along any public street, alley, way or place or within any public park in the city without first obtaining a special permit from the ~~bureau of license and permit services~~ division of construction and business services and then only in such manner as shall not damage or destroy any flora. The application for such permit shall identify the building or structure to be moved and the proposed route over which it is to be moved.

(b) In the event it becomes necessary to relocate, trim, care or replace any flora in or upon any public street, alley, way, place or public park in the city because of the removal or transportation of any building or structure, such relocation, trimming, care or replacement shall be done by the department of public works or its agents or, when directed by the department of public works, by any person upon his or her own premises at the expense of the applicant. Should such relocation, trimming, care or replanting of any such flora or any acts in the moving of any building or structure result in the death of any such flora within one (1) year from the date of such moving, the applicant shall replace such flora at his, her or its expense, as may be required by the department of ~~code enforcement~~ business and neighborhood services. Before any such permit is granted, the applicant shall either (1) execute an indemnity bond with surety to the satisfaction of the department of ~~code enforcement~~ business and neighborhood services or (2) deposit a cash bond with the department of ~~code enforcement~~ business and neighborhood services equal to one hundred fifty dollars (\$150.00) per tree and a like sum for all flora combined that it is anticipated will be adversely affected by any such move. The bonds so deposited shall be retained by the department of ~~code enforcement~~ business and neighborhood services until all flora or its replacement has been provided for and all damage sustained remedied to the reasonable satisfaction of the department of ~~code enforcement~~ business and neighborhood services.

**Sec. 701-16. Contents, duration, charge for permits.**

Every special permit issued by the ~~bureau of license and permit services~~ division of construction and business services under the provisions of this chapter shall specifically describe the work to be done, and, except for persons holding annual permits for work of such nature, all permits shall expire by law sixty (60) days after date, unless extended by the ~~bureau~~ division. No charge shall be made for any specials permit, unless otherwise provided by ordinance.

**Sec. 701-17. Interfering with department of ~~code enforcement~~ business and neighborhood services or department of public works.**

No person shall hinder, prevent, delay or interfere with the department of public works, or any of its agents, in the planting, maintenance or removal of any flora that may be growing in or on any public street, alley, way, place or park in the city or in the removal of any stone, cement or other materials or articles from or about the trunk or stem of any flora that may be growing in or about any public street, alley, way, place or park or otherwise interfere with the department of public works or the department of ~~code enforcement~~ business and neighborhood services in the performance of any other duty prescribed by the provisions of this chapter.

**Sec. 701-21. Procedural and labor charges.**

For its services rendered in the enforcement of this chapter to any owner or owners, the owner or owners so affected shall pay to the department of ~~code enforcement~~ business and neighborhood services, the department of public works or the treasurer of the county the following fees and charges:

- (1) Ten dollars (\$10.00) for each inspection to determine compliance with the provisions of this chapter;
- (2) Eight dollars (\$8.00) for determining property ownership;
- (3) Any out-of-pocket costs for publication of notice pursuant to section 701-19;
- (4) Ten dollars (\$10.00) for services performed in perfecting a lien;
- (5) Three dollars (\$3.00) for each time a first class letter is mailed to an owner or owners;

- (6) Five dollars (\$5.00) for preparing and sending a certified letter;
- (7) Ten dollars (\$10.00) per man hour, or fraction thereof, for services rendered in the abatement of a violation; and
- (8) The actual costs incurred by the department of public works for the use of each piece of equipment used for abating a violation.

**Sec. 701-24. Enforcement.**

(a) The department and its division of ~~inspections~~ construction and business services, and the department of public works, shall have the right to inspect all trees and flora covered by this chapter for compliance with this chapter and the regulations promulgated pursuant hereto.

(b) Any violations of this chapter or of the regulations promulgated pursuant hereto, not otherwise covered in section 701-18 through 701-22, shall be subject to the penalties of section 103-3 of this Code and shall carry a fine of one hundred dollars (\$100.00) per day for a maximum period of twenty-five (25) days.

(c) In addition to the penalties prescribed in subsection (b), the department may enjoin or abate any violation of this chapter by appropriate action.

(d) The department may take appropriate legal action including, but not limited to, an action to recover attorney's fees.

**Sec. 575-2. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section. The word "shall" is always mandatory and not merely directory.

*Authorized individual* means a designee of the director of the department of ~~code enforcement~~ business and neighborhood services.

*Environmental public nuisance* means:

- (1) Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
- (2) Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
- (3) A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
- (4) Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.

*Equipment* means such equipment as trucks, tractors, bulldozers and similar motor vehicles and hand-operated equipment such as weed trimmers and similar equipment.

*Excluded property* means:

- (1) Cultivated land in commercial, domestic, agricultural or horticultural use;
- (2) An existing natural or developed forest that does not create a health or safety hazard;
- (3) Vacant, open lands, fields or wooded areas more than one hundred fifty (150) feet from occupied property;
- (4) A nature habitat area more than one hundred fifty (150) feet from an occupied structure on adjacent property and determined by state and/or local governmental health authorities not to be a health or safety hazard;

- (5) A wetland area designated by the United States Department of Interior Fish and Wildlife Division on a National Wetlands Inventory Map and/or determined to be a wetland area by the Department of public works;
- (6) The portion of real property designated as a rain garden area and registered with the city's rain garden registry and agreement program; or
- (7) The portion of real property designated as a native wildlife planting area and registered with the city's native wildlife planting registry and agreement program.

*Governmental property* means real estate that is owned, leased, controlled or occupied by the United States, the State of Indiana, or any political subdivision thereof.

*Occupant* means the person, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization, or entity who is from time to time in possession or exercising dominion and control over the real estate or any house or other structure located thereon. Occupant shall include any lessee of the property.

*Owner* means the record owner or owners as reflected by the most current records in the county assessor's office.

*Private property* means all real estate within the city except governmental property.

*Recipient* means the owner or occupant to whom notice of violation has been directed.

*Repeat violation* occurs when a property owner or occupant who has previously been issued notice of a similar environmental public nuisance for the same property or who has been found by a hearing or judicial officer to have allowed a similar environmental public nuisance to exist at the same property allows a subsequent similar environmental public nuisance to exist at that property within eighteen (18) months of the date of the previous notice or finding of violation, whichever is later. A repeat violation does not occur when multiple violations of subsection (4) of the definition of environmental public nuisance are alleged and:

- (1) The owner or occupant can demonstrate that illegal dumping was the cause of the underlying violations; and
- (2) The owner or occupant has made a reasonable effort to prevent illegal dumping from recurring.

**Sec. 575-5. Determination of violation; notice of violation.**

(a) Any department of the city that receives a complaint regarding an environmental public nuisance on any property within the city shall forward that complaint to the department of ~~code enforcement~~ business and neighborhood services, which shall make a record of, and assign a case number to, such complaint. An authorized individual shall visually inspect the property in question. If the authorized individual determines that a violation exists, the department shall issue a notice of violation to the owner if the city intends to proceed under the provisions of section 575-7 of this chapter and, in the department's sole discretion, to the occupant. A notice of violation issued for vegetation of a height of twelve (12) inches or more remains in effect for the calendar year in which it is issued if the city abates the environmental public nuisance under the provisions of section 575-7 of this chapter. After such abatement by the city, without issuance of further notice, the city may continue to reinspect the subject property and may abate subsequent violations of vegetation of a height of twelve (12) inches or more and may recover its abatement costs under this chapter.

(b) Notice of violation described in subsection (a) shall be issued either by personal service or by first class United States mail, postage prepaid. Such notice shall state the nature of the alleged environmental public nuisance and the action deemed necessary to correct the condition, and shall fix a date not sooner than five (5) days from the date of the notice for vegetation of a height of twelve (12) inches or more, and ten (10) days from the date of the notice for all other violations under this chapter, when the property will be reinspected. The notice shall inform the recipient that, if the condition is not corrected upon reinspection, the city has the right to enter on the property to abate or correct the condition and bill the recipient for costs incurred in so doing. A notice to the occupant at the real estate or to the owner at the address to which property tax statements are sent as these addresses are shown by the most current records in the county assessor's office shall be sufficient notice under this subsection.

**Sec. 575-7. Failure to abate after notice; abatement by city.**

(a) Abatement by city. If, upon reinspection, it is determined by the authorized individual that abatement has not occurred, or if vegetation of a height of twelve (12) inches or more is present on a property in the same calendar year in which the city previously abated a violation of a similar nature on that property, then the director of the department of ~~code enforcement~~ business and neighborhood services, or his or her designee, may enter upon the premises and abate the environmental public nuisance. The recipient shall be liable for the costs of abatement. After abatement is completed, the department shall, either by personal service or first class United States mail, postage prepaid, send the recipient a bill for the costs of abatement.

(b) Responsibility of occupant or owner for costs of abatement.

(1) Abatement costs. As reimbursement to the department of ~~code enforcement~~ business and neighborhood services for its costs, the recipient shall, within ten (10) days of the date of the bill, pay to the department the following fees and charges:

- a. An administrative fee, provided in section 131-501 of the Code, for such administrative tasks as inspecting the property to determine compliance, determining ownership and preparing and mailing notices;
- b. Any disposal fees actually incurred to dispose of litter and waste products removed;
- c. Any other reasonable fees actually incurred in abating an environmental nuisance; and
- d. Administrative, labor and equipment fees may be changed or established by regulation of the board of ~~code enforcement~~ business and neighborhood services as necessary to assure that such fees are adequate to reimburse the department.

(2) Hearing. A recipient may request in writing an informal hearing before the director of the department of ~~code enforcement~~ business and neighborhood services, or his or her designee, to dispute the existence of a violation and/or the accuracy of all or part of the costs of abatement billed. Upon receipt of a hearing request, the department shall not take abatement action until after the director or his or her designee notifies the recipient of his or her decision. After such hearing, the director of the department of ~~code enforcement~~ business and neighborhood services, or his or her designee, shall determine the existence of a violation and/or the accuracy of all or part of the abatement costs billed and shall notify the recipient of any amounts due to the department. The decision of the director, or his or her designee, shall be final.

(3) Unpaid costs become lien upon affected property; perfecting of lien. Upon the failure of the owner who was sent a bill to pay the appropriate fees and charges within the ten-day time period, the department of ~~code enforcement~~ business and neighborhood services shall have a lien upon the property on which the environmental public nuisance was abated for the amount billed in accordance with the fee schedule listed above. In addition, there will be a ten-dollar (\$10.00) charge for services necessary in order to perfect such lien. Such liens may be perfected in the following manner:

- a. By the adoption by the board of ~~code enforcement~~ business and neighborhood services at any regular or special meeting thereof of an assessment resolution, which shall give the name of the owner or owners, a description of the property on which the environmental public nuisance was abated, and the amount of the charges being assessed;
- b. The certification of such assessment resolution to the county auditor, who by special assessment shall cause the amount thereof to be placed on a tax duplicate for the property on which the environmental public nuisance was abated for collection as in the nature of a real property tax; and
- c. Upon receipt of a written verified request from the purchaser, the department shall release liens perfected after the recorded date of conveyance of the property. The request must state that the purchaser was not an owner or occupant of the property at the time of the notice of violation or at the time of the city's abatement without notice of a subsequent violation of a similar nature in a calendar year as provided in this chapter, had no knowledge of the notice of violation and has not been paid by the seller for the costs of abatement billed.

(4) Civil action to recover costs of abatement. Upon the failure of the recipient who was sent the notice of violation and bill to pay the appropriate fees and charges within the ten-day period, the department of ~~code~~

~~enforcement~~ business and neighborhood services may bring a civil action in court against such recipient to recover the amount billed, plus reasonable attorney's fees.

**Sec. 575-8. Existence of violation; court action or administrative adjudication for ordinance violation; court action or administrative adjudication for repeat violation.**

(a) In addition to or in lieu of the foregoing, if, upon inspection, it is determined by the authorized individual that an environmental public nuisance exists, the department of ~~code enforcement~~ business and neighborhood services may initiate a civil court action or administrative adjudication for ordinance violation against the owner or occupant of the property. A court action shall be initiated by submitting a written request to the corporation counsel to file a complaint of ordinance violation and/or to enjoin any environmental public nuisance. Administrative proceedings may be initiated by an authorized individual or by corporation counsel by following the procedures set forth in Chapter 103, Article V.

(b) Regardless of whether later abatement by the recipient has occurred, the department may initiate an administrative adjudication or a civil court action for any violation of this chapter.

**Sec. 575-9. Penalty.**

(a) Any owner or occupant found in violation of this chapter may be fined not more than two thousand five hundred dollars (\$2,500.00) for each violation. Each day such violation is permitted to continue shall constitute a separate violation. A previous violation of this chapter may be considered in determining the penalty assessed. Notwithstanding section 103-3 of this Code, a finding that a violation occurred or an admission that a violation occurred is not required to assess and recover a penalty if the recipient subject to the penalty agrees to pay the penalty pursuant to either an agreed judgment or consent decree in a court action for ordinance violation or a compliance agreement in an administrative adjudication.

(b) Notwithstanding paragraph (a) above, a recipient shall be fined two thousand five hundred dollars (\$2,500.00) for each repeat violation.

(c) The department of ~~code enforcement~~ business and neighborhood services may publish a list of the names of owners and occupants who have been cited for a repeat violation under this chapter and the addresses of the affected properties. The director shall determine the frequency of publication.

**Sec. 575-10. Variance.**

An owner or occupant may submit a written request for a variance to the board of ~~code enforcement~~ business and neighborhood services if compliance with this chapter will cause undue hardship to such owner or occupant without a sufficient corresponding benefit to the health or safety of the public. To receive consideration, such request must be received prior to the time the city abates the environmental nuisance on the property. Upon receipt of a request, the board of ~~code enforcement~~ business and neighborhood services shall schedule a hearing and notify the owner or occupant of the time and place. At least ten (10) days prior to the hearing, the owner or occupant shall notify in writing the owners and occupants of all property within one hundred fifty (150) feet of the property for which the variance is requested. The notice shall state the location of the property for which the variance is requested, the nature of the variance requested, and the time and place of the hearing. At the hearing, the owner or occupant requesting the variance, representatives of the city, representatives of state or local governmental health authorities and any person affected by the proposed variance may present evidence. After the hearing, the board of ~~code enforcement~~ business and neighborhood services may grant or deny the request. The decision of the board shall be final. Within ten (10) days of the decision, written notice of the board of ~~code enforcement~~ business and neighborhood services's decision shall be given to the owner or occupant who requested the variance.

**Sec. 575-11. Rules and regulations.**

The board of ~~code enforcement~~ business and neighborhood services may, by resolution, promulgate rules and regulations necessary to implement and carry out the provisions of this chapter.

**Sec. 575-12. Release of liens.**

The board of ~~code enforcement~~ business and neighborhood services may release any liens for abatement costs or judgment liens for any other amount due pursuant to this chapter if it finds that the benefit to the city outweighs the detriment caused by such a release. The board may require parties affected by the release to agree to whatever conditions the board deems appropriate; provided, however, all conditions shall be set forth in a conditional release of

the lien and shall be recorded in the office of the county recorder. If the board finds that an affected party has failed to comply substantially with the conditions imposed by the board, the release shall be void and the lien affecting the property may be reinstated by the board.

**Sec. 575-202. Definitions.**

As used in this article, the following terms shall have the meanings ascribed to them in this section:

*Abate or abatement* means the removal or complete covering of graffiti.

*Aerosol paint* means any color or pigment adapted or made for the purpose of being applied or sprayed to the surface of an object.

*Authorized individual* means a designee of the director of the department of ~~code enforcement~~ business and neighborhood services.

*Broad-tipped marker* means any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth (1/4) of an inch, containing ink or other pigmented liquid, that is not water soluble.

*Department* means the department of ~~code enforcement~~ business and neighborhood services or its designee.

*Etching equipment* means any tool, device, or substance than can be used to make permanent marks on any natural or man-made surface. It shall not mean any key, silverware, gardening tool, or pocketknife.

*Graffiti* means any unauthorized inscription, word, figure, design, painting, writing, drawing or carving that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed on a component of any building, structure, or other facility by any graffiti implement, visible from any public property, the public right-of-way, or from any private property other than the property on which it exists. There shall be a rebuttable presumption that such inscription, word, figure, painting, or other defacement is unauthorized. This article does not apply to easily removable chalk markings on the public sidewalks and streets.

*Graffiti implements* mean materials used or intended to be used to facilitate the placement of graffiti, including but not limited to, aerosol paint containers, broad-tipped markers, gum labels, paint sticks, graffiti sticks, engraving devices or creams, etching equipment, brushes, chemicals or any other implement capable of scarring or leaving a visible mark on any natural or manmade surface.

*Manager* means any person, not the record owner, who has possession and control of the property or who has the right to possession and control of the property. The term does not include a tenant or sub-tenant who merely occupies the property.

*Owner* means the record owner or owners as reflected by the most current records in the county assessor's office.

*Paint stick* or *graffiti stick* means a device containing a solid form of paint, wax, epoxy, or other similar substance capable of being applied to a surface by pressure, that is not water soluble, and upon application, leaving a mark at least one-sixteenth (1/16) of an inch in width.

*Person* means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

*Recipient* means the owner or manager to whom notice of violation has been directed.

**Sec. 575-204. Determination of violation; notice of violation.**

(a) Any department of the city that receives a complaint regarding property within the city that is defaced by graffiti shall forward that complaint to the department of ~~code enforcement~~ business and neighborhood services, which shall make a record of, and assign a case number to, such complaint. An authorized individual shall visually inspect the property in question. If the authorized individual determines that the property has been defaced by graffiti, the department shall issue a notice of violation to the owner if the department intends to proceed under the provisions of section 575-206 and, in the department's sole discretion, to the manager of the property.

(b) A notice of violation as described in subsection (1) shall be issued either by personal service or by first class United States Mail, postage prepaid. The notice shall contain the following information:

- (1) The street address of the property;
- (2) The approximate location of the graffiti on such property;
- (3) A statement that the graffiti must be removed or covered completely within thirty (30) days after the date of the notice;
- (4) Information regarding graffiti abatement programs available through the city, if any; and
- (5) Information regarding the requirement for a certificate of appropriateness (COA) if the structure is protected by the Indianapolis Historic Preservation Commission or the Meridian Street Preservation Commission.

**Sec. 575-207. Rules and regulations.**

The board of ~~code enforcement~~ business and neighborhood services may, by resolution, promulgate rules and regulations necessary to implement and carry out the provisions of this chapter.

**Sec. 616-401. Enforcement.**

(a) This chapter shall be enforced by:

- (1) The deputy director of the department of ~~code enforcement~~ business and neighborhood services, division of ~~inspections~~ construction and business services;
- (2) Fire department personnel authorized to conduct fire inspections in accordance with section 591-221;
- (3) Officers of the Indianapolis Metropolitan Police Department; and
- (4) The director of the division of public health, the director's authorized representative, a supervisor in the division, or an environmental health specialist of the Health and Hospital Corporation of Marion County.

(b) An owner, manager, operator, or employee of an establishment regulated by this chapter shall inform persons violating this chapter of the appropriate provisions thereof and shall ask those persons to refrain from smoking.

(c) For a business that elects to be exempted under the provisions of section 616-204(a)(3), it shall be the duty of the owner, manager, or operator to ensure that no persons under the age of eighteen (18) are allowed to enter, except as provided by state law.

**Sec. 801-102. Applicability; definitions.**

(a) The provisions of this chapter shall apply to all businesses that are required under the following chapters of this title to be licensed by the license administrator, but shall have no application to businesses that may be franchised or licensed under this title by some authority other than the license administrator, or to other businesses.

(b) As used in those chapters of Title IV of the Code that provide for licensure by the license administrator, the following terms shall have the meanings ascribed to them in this section.

*Applicant* means the person who makes an application for a license, and who will be the licensee if the license is granted.

*Application* includes the words "*registration form*," and means the written form provided by the license administrator upon which a person may apply for a license, or register.

*Business* means and includes any kind of vocation, occupation, profession, enterprise or any other kind of activity (together with any equipment, vehicles or other personal property, and any premises used therein) that is conducted, directly or indirectly, in the city.

~~Bureau of license and permit services~~ Division of construction and business services or ~~bureau division~~ means the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services.

~~Division of inspections~~ means the division of inspections of the department of code enforcement.

*Financial interest* means:

- (1) Any of the legal rights of ownership or beneficial interest in the profits of a business; or
- (2) Any portion of the legal rights of ownership in any partnership, corporation or other legal entity having any portion of such rights or beneficial interest; equal to or greater than five (5) percent of the whole.

"Financial interest" includes, but is not limited to, that interest held by stockholders and officers of corporations or similar business entities.

*Insignia* means any certificate, tag, badge, plate, card or emblem that may be issued by the license administrator as evidence that a license has been issued.

*License* includes the words "registration," "certificate of registration," and "permit," and means the privilege of carrying on a specified business in the city; however, registrations, permits and licenses each may be granted where specifically authorized by this Code.

*License administrator* means the administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services or his/her designee.

*Licensee* includes the words "registrant" and "permittee," and means the person to whom a current license, registration or permit has been issued, and that person's agents and employees.

*Premises* means all real estate (including structures and fixtures affixed thereto) used in a business, together with all equipment, vehicles and other personal property used in that business.

*Public welfare* means the health, safety, prosperity and convenience of the inhabitants of the city, either as a whole or individually.

(c) Under the definitions provided in this section, all the rights, duties, responsibilities, conditions, restrictions, enforcement, and other procedures, including provisions for the suspension or revocation of licenses, which are provided in Title IV of this Code and have general application to licenses and licensees, shall apply with equal force to registrations and registrants, and permits and permittees, unless the context in which the words "license" or "licensee" are used clearly indicates otherwise.

#### **Sec. 801-210. Denial of license; notification; refund of fee.**

(a) Whenever an application for a license or renewal of a license is denied, the license administrator shall give the applicant or licensee written notice of the denial. The notice shall state the reason or reasons for the denial, and inform the applicant or licensee of the following:

- (1) The right to request a license administrator's hearing, and the time limitations in which to do so; and
- (2) The right to appeal the decision to the board of ~~code enforcement~~ business and neighborhood services, and the time limitations in which to do so.

(b) Whenever an application for a license or renewal of a license is denied, the license fee paid in advance shall be refunded upon demand.

#### **Sec. 801-303. Duties of licensees.**

(a) All licenses shall be issued upon the condition that the licensee shall:

- (1) Permit inspections of the licensed business and premises by the division of ~~inspections~~ construction and business services and other public authorities acting pursuant to law;



- (2) Conduct and maintain the licensed business and premises in such a manner that they will not create a nuisance or become inimical to the public welfare;
- (3) Comply with all laws, statutes, ordinances, and regulations promulgated thereunder, as well as any orders and decisions of public officials that pertain to the licensed business or premises;
- (4) Not permit any illegal activity to take place on the licensee's premises or in the conduct of the licensed business; and
- (5) Provide the license administrator with written notice of any additions or changes in the information given in the license application.

(b) Any violation of the conditions listed in this section shall be cause for suspension or revocation of the license under Article IV of this chapter.

**Sec. 801-305. Inspection of licensed premises.**

(a) The license administrator may have licensed businesses inspected by employees of the division of ~~inspections~~ construction and business services or other departments or divisions of the city government to determine if the licensee is in violation of any requirement imposed by law.

(b) All employees of the city who have been authorized by the license administrator to make inspections may enter any place of business of a licensee for that purpose at a reasonable time and in a reasonable manner.

(c) It shall be unlawful for a person to prevent or deny an inspection authorized under this section.

(d) With respect to licensed businesses, all violations of law observed during the course of an inspection or observed by a policeman, fireman, health inspector or other city official during the course of such person's employment, shall be reported immediately to the license administrator.

**Sec. 801-310. Inspection fee.**

(a) To compensate the department of ~~code enforcement~~ business and neighborhood services for the administrative expense incurred by its ~~bureau of license and permit services~~ division of construction and business services as listed in this chapter, a fee provided in section 131-501 of the Code may be assessed at the discretion of the license administrator (in accordance with a written policy established by the license administrator) against a person, partnership, or corporation relative to business activity for which:

- (1) The person, partnership, or corporation has obtained a license; and
- (2) Notice was given pursuant to section 801-213 that an inspection was to be conducted at the applicant business licensed premises under section 801-305, and:
  - a. The licensed premises could not be found because the address provided in the license application was incorrect; or
  - b. The licensed premises was not accessible when the department attempted to make the requested inspection at the time agreed upon for the inspection (or if no time was agreed upon, between 8:00 a.m. and 5:00 p.m. Monday through Friday on a day that is not a holiday).

(b) To compensate the department for the administrative expenses incurred by the ~~bureau~~ division as listed in this chapter, a fee provided in section 131-501 of the Code may be assessed at the discretion of the license administrator (in accordance with a written policy established by the license administrator) against a person, partnership, or corporation when an inspection reveals that business activity for which a license would be required is occurring and a license was not obtained prior to the time of inspection.

(c) The license administrator, or his or her designee, may at his or her discretion, waive all or part of an administrative fee assessed under this section when such fee was assessed in error or when mitigating circumstances indicate the appropriateness of waiving all or part of the inspection fee.

ARTICLE IV. LICENSE ENFORCEMENT AND REVIEW

**Sec. 801-424. Decision of the license administrator.**

Following a hearing, the license administrator shall cause written notice of the license administrator as assigned by the deputy director 's decision to be served on the licensee in the manner provided by this chapter. If the decision is adverse to the applicant or licensee, the decision shall include the following:

- (1) The factual and legal basis for the decision; and
- (2) A statement of the licensee's right to appeal the decision to the board of ~~code enforcement~~ business and neighborhood services, and the time limitations in which to do so.

**Sec. 801-431. Jurisdiction.**

With respect to the matters presented as provided in this division, the board of ~~code enforcement~~ business and neighborhood services shall have jurisdiction throughout the consolidated city and county.

**Sec. 801-432. Composition of the board for license hearings.**

In all instances where this Code provides that a decision of the license administrator or other official may be appealed to the board of ~~code enforcement~~ business and neighborhood services, the board shall act by and through a committee. At its first meeting each calendar year, the board of ~~code enforcement~~ business and neighborhood services shall:

- (1) Elect three (3) of its members, not including the chairman of the board, to constitute a committee for the purpose of hearing such appeals; and
- (2) Elect one of the committee members to serve as the chairperson.

The actions of the committee with respect to an appeal of a decision of the license administrator or other official shall constitute final action of the entire board of ~~code enforcement~~ business and neighborhood services without any further action, review or approval by the board.

**Sec. 801-434. Right to appeal to the board; time requirement.**

(a) Whenever an applicant or licensee wishes to appeal a decision of the license administrator not to issue or renew a license, or to suspend or revoke a license, the applicant or licensee shall first appeal the license administrator's decision to the board of ~~code enforcement~~ business and neighborhood services.

(b) The applicant or licensee shall deliver a written notice of appeal to the license administrator, either by registered or certified mail, return receipt requested, or by personal service with a signed receipt. If the notice is not delivered to the license administrator within twenty (20) days after the date of issuance of the decision from which the appeal is taken, then the applicant or licensee shall forfeit the appeal.

**Sec. 807-302. Operational requirements.**

(a) It shall be unlawful to own or operate an adult entertainment business that is not in compliance with the requirements stated in this section.

(b) An adult entertainment business shall be kept in a sanitary condition at all times. As a condition of licensure under this chapter, the license administrator or license administrator's designee shall have the right to enter any licensed premises during business hours without notice to insure compliance with this chapter, and it shall be unlawful for a person to prevent or deny any such entry. The license administrator shall have the power to determine if such business is in a sanitary condition. For such purpose, the license administrator shall have, upon demand, the assistance of the administrator of the division of ~~inspections~~ construction and business services, and the Health and Hospital Corporation of Marion County. If the license administrator shall determine, after investigation by the division of ~~inspections~~ construction and business services or the Health and Hospital Corporation of Marion County, that an unsanitary condition exists within an adult entertainment business, the license administrator shall suspend the license for such premises until such unsanitary condition is rectified.

(c) No licensee under this article, or his or her employee, shall violate any state statute or city ordinance, or allow any other person to commit such a violation, within such business or on parking areas or other property immediately adjacent to or normally used for purposes of parking for such business, which property is under the control of the business owner or owners or their lessee or lessor.

(d) Adult entertainment businesses shall not be open between the hours of midnight and 10:00 a.m. and shall not be open on Sundays.

**Sec. 831-3. Registration information required; investigation of applicant; report of changed information.**

(a) The registration of an amusement location shall be filed with the ~~bureau of license and permit division of construction and business~~ services on a form provided by that office, contain the following information, and be verified and signed individually by the registrant:

- (1) The name of the registrant and, if a partnership or corporation, the state in which organized;
- (2) The residence address of registrant;
- (3) The business address of registrant;
- (4) The name, age and citizenship of the registrant, if an individual; of all partners, if the registrant is a partnership or joint venture; or of the manager and officers, if the registrant is a corporation; and
- (5) A description of each amusement machine in the amusement location, including the manufacturer, serial number, and name of the owner of each amusement machine.

(b) Before a certificate of registration is issued, the license administrator shall investigate the character of the registrant or registrants, and the officers or general manager of the business. The registration may be denied if the license administrator finds that any of the persons named in the registration previously have been convicted of a felony, connected with any amusement location where any of the provisions of the law applicable to such persons have been violated.

(c) If there is any change in the registrant's business during the term of the registration such that the information provided in the application form is no longer complete or accurate, including the addition or removal of an amusement machine in the amusement location, then the registrant shall:

- (1) Notify the license administrator in writing within ten (10) days after such change occurs; and
- (2) Retain a copy of each written notice throughout the term of the registration.

Failure to comply with this subsection shall be a violation of the Code.

**Sec. 831-8. Inspections; report of violations.**

It shall be the duty of every law enforcement officer, and all persons designated by the chief of the Indianapolis metropolitan police department and the department of ~~code enforcement~~ business and neighborhood services division of ~~inspections~~ construction and business services, to inspect all amusement locations, and amusement machines, and if any gaming, improper or unlawful practices are observed to report the same to the chief of such department for proper action and also to the license administrator, who thereupon may recommend proceedings to revoke the registration.

**Sec. 841-111. Right of inspection of tickets.**

It shall be unlawful for a ticket broker to refuse to provide any tickets in his or her possession to an officer of the Indianapolis Metropolitan Police Department or a member of the department of ~~code enforcement~~ business and neighborhood services division of ~~inspections~~ construction and business services for the purposes of inspecting such tickets.

**Sec. 841-112. Limited duration license required during special events.**

Notwithstanding any other provision of this Code, a ticket broker who desires to engage in licensed activities during a special event shall be required to obtain a limited duration license as provided in Chapter 986 of the Code. It

shall be unlawful for a ticket broker to engage in the reselling or the repurchasing of tickets during a special event without first having obtained a limited duration license from the ~~bureau of license and permit~~ division of construction and business services.

**Sec. 851-103. Definitions.**

*Department* means the department of ~~code enforcement~~ business and neighborhood services its designee.

*Landlord* has the meaning set forth in IC 32-31-3-3.

*Owner* has the meaning set forth in IC 32-31-3-4.

*Person* has the meaning set forth in IC 32-31-3-5.

*Rental unit* has the meaning set forth in IC 32-31-3-8, except that an owner-occupied structure that:

- (a) Has no portion of the area thereof promised for the use of a residential tenant, or
- (b) Has a single sleeping unit being rented to a tenant shall not be considered a "Rental Unit."

*Rental unit community* has the meaning set forth in IC 36-1-20-1.5.

*Tenant* has the meaning set forth in IC 32-31-3-10.

**Sec. 931-202. Registration information required; plot plan.**

(a) A registration required by this article shall be made to the license administrator upon a registration form approved first by the ~~bureau of license and permit~~ construction and business services. The form shall include the following information and any other information that the ~~bureau~~ division shall require:

- (1) The name and address of all persons who have a fee or leasehold interest in the real property on which the commercial parking facility is to be located;
- (2) The name and address of the person who proposes to operate the commercial parking facility; if the registrant is a firm, the name and address of each partner shall be given, and if the registrant is a corporation, the name and address of the resident agent and president shall be given;
- (3) The address of the commercial parking facility and legal description of the real estate on which it is to be located;
- (4) The number of square feet of the commercial parking facility, and the type of ground surface, pavement or floor surface;
- (5) The vehicle capacity of the commercial parking facility; and
- (6) The nature of the drainage system for any commercial parking facility lot that was constructed or placed in operation after July 1, 1971.

(b) A registrant under this article shall submit with the registration form a scale drawing or plot plan of the commercial parking facility, which shows the configuration of parking spaces, aisles, entrances, exits, barriers, outdoor signs, and motor vehicle reservoir areas; however, a registrant shall not be required to comply with this subsection if:

- (1) The commercial parking facility only uses attendant parking; or
- (2) A scale drawing or plot plan that accurately reflects the information required by this subsection is on file in the ~~bureau~~ division, and is identified in the form.

**Sec. 931-204. Investigation by division of inspections.**

Prior to the approval or renewal of a registration under this article, the division of ~~inspections- construction and business services~~ may investigate whether the commercial parking facility is in compliance with the provisions of this chapter and other applicable ordinances and statutes, and report its findings to the license administrator.

**Sec. 931-207. Report of changes of circumstances.**

If changes occur relative to a commercial parking facility during the time a registration is in force, of such a nature as to make the information stated on the registration form inaccurate or incomplete, the registrant shall supply corrected information in writing within thirty (30) days to the ~~bureau of license and permit~~ division of construction and business services.

**Sec. 931-209. Temporary commercial parking facilities.**

(a) For purposes of this section, the term temporary commercial parking facility means and includes a commercial parking facility that is used as such:

- (1) For no more than three (3) periods of thirty (30) days or less, and no more than a total of forty-five (45) days in a calendar year; or
- (2) For no more than two (2) consecutive years, upon a showing that the owner of the land or building intends to develop it for a specified purpose other than a commercial parking facility, and that maintenance of the land or building in compliance with all the requirements of this chapter for such a limited period of time would cause undue economic waste.

(b) All provisions of this chapter are applicable in full to temporary commercial parking facilities unless modified or exempted by this section.

(c) The registration of a temporary commercial parking facility shall be made with the license administrator, shall meet the applicable requirements of this article for registration forms, and shall be submitted to the license administrator at least fourteen (14) calendar days prior to the anticipated first day of use. The registration form shall, in addition to the requirements of this article, also state the duration and reason for the temporary use.

(d) The following additional exemptions or modifications of this chapter shall be effective with respect to temporary commercial parking facilities:

- (1) Conspicuous outlining of motor vehicle reservoir areas with pavement paint shall not be required;
- (2) The provisions of this chapter that relate to drainage and surfacing shall not apply;
- (3) The provisions of this chapter that relate to wheel guards shall apply at the discretion of the ~~bureau of license and permit~~ division of construction and business services; and
- (4) The provisions of this chapter that relate to signs are modified to permit temporary signs, and the "first hour" rate shall be posted on the sign unless hourly rates are charged.

**Sec. 931-210. Revocation.**

(a) The license administrator shall revoke any commercial parking facility registration issued under this article, upon delivery by the division of inspections of its written certification that the registrant:

- (1) Has failed, after having been notified in writing and given a period of twenty (20) days to do so, to correct an inaccurate statement of material importance in the registration form, which was either inaccurate as originally made or became inaccurate because of changes ~~which~~ that occurred relative to the commercial parking facility after the date of submission; or
- (2) Has knowingly made any false statement in the registration form.

(b) The license administrator may revoke any commercial parking facility registration if, upon investigation and after a hearing, the license administrator finds the registrant has failed, after having been notified in

writing and given a period of ten (10) days to do so, to properly maintain a bond or insurance policy as required by this article.

**Sec. 931-302. Surfacing and barriers.**

(a) The ground or floor surface of every commercial parking facility shall be covered with concrete, brick, stone slab, asphaltic pavement or a similar durable and dust-free surface that meets the approval of the division of inspections. The ground or floor surface of the commercial parking facility shall be such as to provide a smooth, level surface for parking and shall be free of depressions, gaps, holes or similar surface aberrations. On due cause shown, the division of inspections may, in writing, allow the use, for a period of time not exceeding six (6) months after the commercial parking facility is opened, of a commercial parking facility that does not conform to this subsection.

(b) The motor vehicle parking area in every commercial parking facility shall be enclosed by barriers, except at places of entrance and exit. If a motor vehicle parking and storage area abuts a building, barriers shall be erected to prevent motor vehicles from striking the building. Such barriers shall be sufficient to stop a motor vehicle rolling at a rate of speed of five (5) miles per hour. The ~~bureau of license and permit~~ division of construction and business services, upon written request by the registrant, shall have the power to modify or waive this subsection where it is deemed by the ~~bureau~~ division to be unnecessary and unreasonably burdensome.

**Sec. 931-303. Entrances, exits and required reservoir area.**

(a) Each commercial parking facility shall have at least one (1) entrance and exit, which may or may not be combined, and which shall be adequate to afford safe and efficient ingress and egress to the commercial parking facility.

(b) Each commercial parking facility shall have a motor vehicle reservoir area at each entrance at which a ticket or claim check is given, a fee is paid, or the registrant under this chapter takes physical control of the motor vehicle for the purpose of handling it. In commercial parking facilities that consist of less than fifteen thousand (15,000) square feet of area used for aisles and parking, the motor vehicle reservoir area shall contain three (3), nine-foot by twenty-foot spaces. In all other commercial parking facilities, the motor vehicle reservoir area shall consist of four (4), nine-foot by twenty-foot spaces. The motor vehicle reservoir area shall be conspicuously outlined with pavement paint and shall not be used for the parking or storage of motor vehicles, except when all parking spaces are filled. On good cause shown, the ~~bureau of license and permit~~ division of construction and business services may, in writing, allow the use of a commercial parking facility that has a motor vehicle reservoir area that does not conform to the requirements of this subsection.

**Sec. 931-306. Landscaping requirements for commercial parking facilities not in a building.**

(a) Any commercial parking facility that was constructed or placed in operation after July 1, 1971, and in which motor vehicles are not parked within a building, shall comply with the landscape requirements of this section. Any commercial parking facility that was constructed or placed in operation on or before July 1, 1971, and in which motor vehicles are not parked within a building, shall not be altered or modified so as to put it in further conflict with this section. If, however, a provision of a zoning ordinance, variance grant, parole covenant or commitment imposes a more stringent landscape and screening requirement than is found in this section, the provisions of the zoning ordinance, variance grant, parole covenant or commitment shall be controlling.

(b) Yard requirements include the following.

- (1) Ten (10) percent of the lot surface area shall be devoted to yard area. "Lot surface area" shall not be considered to include a street right-of-way. Each yard shall be planted and adequately maintained in ground cover, which may include grass, and shrubbery or trees and shall be raised and defined by a six-inch curb.
- (2) Part of the yard area requirement shall be met by providing and maintaining a yard (bufferyard) at least five (5) feet in depth along each property line, except at places of entrance and exit, which is contiguous to a street or residential district. For the purpose of this subsection, the term "street" shall mean all designated streets except for any street that is less than thirty (30) feet in width and located within the geographic area bounded by North, East, South and West Streets.
- (3) An architectural screen may be permitted in lieu of the bufferyard, upon approval of the ~~bureau of license and permit~~ division of construction and business services as to design, material and placement of the architectural screen. The architectural screen shall be a wall or fence of ornamental block or brick, or a

combination thereof. For each linear foot of architectural screen, the required number of square feet of yard area shall be reduced by two (2) square feet.

(c) Tree requirements include the following.

- (1) A minimum of one (1) live tree of a three-inch caliper size or larger for every two thousand five hundred (2,500) square feet of lot surface area shall be planted and maintained. The trees shall be located in the yard area.
- (2) Where an architectural screen is not permitted in lieu of a bufferyard, one (1) of the required trees shall be planted and maintained in the bufferyard for each fifty (50) linear feet of bufferyard.

(d) ~~The bureau of license and permit~~ division of construction and business services, upon request by the registrant and upon receiving a suitable alternative plan that meets the general objectives of this section, shall have the power to modify or waive, in writing, any landscape requirements that are deemed by the ~~bureau~~ division to be unfeasible or unreasonably burdensome.

**Sec. 951-408. Record to be kept.**

(a) Every salvage or scrap metal dealer shall keep and preserve a legible record, in a written or electronic form approved by the license administrator, of all purchase transactions to which such salvage or scrap metal dealer is a party.

(b) In every purchase transaction in which a salvage or scrap metal dealer acquires regulated metals property from a person other than an officer, director, manager, or other agent or employee of another licensed salvage or scrap metal dealer or a manufacturing, industrial, or other commercial vendor that has a fixed place of business and generates regulated metals property in the ordinary course of business, the salvage or scrap metal dealer acquiring any regulated metals property in the purchase transaction, or an officer, director, manager, or other agent or employee of such salvage or scrap metal dealer shall, at the time of any such purchase transaction, enter the following information into the record required by this section:

- (1) The weight or quantity and a description of all regulated metals property received in the purchase transaction;
- (2) The amount of consideration exchanged for all regulated metals property received in the purchase transaction;
- (3) The date and time of the purchase transaction;
- (4) The name, address, and date of birth, of the person receiving consideration in exchange for any regulated metals property in the purchase transaction;
- (5) The motor vehicle license number, make, model, and color of the vehicle delivering the regulated metals property to the salvage or scrap metal dealer's place of business;
- (6) The name of the person entering the information into the record required by this section;
- (7) The signature of the person receiving consideration for any regulated metals property in the purchase transaction;
- (8) A photographic copy of the unexpired government-issued photographic identification card of the person receiving consideration in exchange for any regulated metals property in the purchase transaction;
- (9) A photographic or videographic image, made at the time of the purchase transaction, showing a frontal view of the facial features of the person receiving consideration for any regulated metals property; and
- (10) A photographic or videographic image of any regulated metals property received by the salvage or scrap metal dealer in the purchase transaction, and in which image any serial numbers or manufacturer's markings on the regulated metals property are clearly visible.

(c) In every purchase transaction in which a salvage or scrap metal dealer acquires regulated metals property from an officer, director, manager, or other agent or employee of a manufacturing, industrial, or other commercial vendor that has a fixed place of business and generates regulated metals property in the ordinary course of

business, the salvage or scrap metal dealer acquiring any regulated metals property in the purchase transaction, or an officer, director, manager, or other agent or employee of such salvage or scrap metal dealer shall, at the time of any such purchase transaction, enter the following information into the record required by this section:

- (1) The weight or quantity and a description of all regulated metals property received in the purchase transaction;
- (2) The amount of consideration exchanged for all regulated metals property received in the purchase transaction;
- (3) The date and time of the purchase transaction;
- (4) The name of the person entering the information into the record required by this section; and
- (5) The name, address, and telephone number of the manufacturing, industrial, or other commercial vendor receiving consideration in exchange for any regulated metals property in the purchase transaction.

(d) A salvage or scrap metal dealer shall maintain or cause to be maintained the record required by this section for not less than five (5) years from the date of the purchase transaction.

(e) The record required by this section shall be open to inspection at all reasonable times by the police or the division of ~~inspections~~ construction and business services.

(f) It shall be unlawful for a salvage or scrap metal dealer to fail to comply with any provision of this section.

**Sec. 987-102. License required; fee; exempt activities.**

(a) It shall be unlawful for a person to engage in transient merchant activity in the city without first having obtained a license therefor from the license administrator. The annual fee for registration of transient merchant activity shall be provided in section 131-501 of the Code.

(b) Notwithstanding the provisions of subsection (a) of this section, a person is not required to obtain a license under this article if the person's transient merchant activity consists solely of the following:

- (1) Transient merchant activity that is authorized by a license obtained under this article by another person;
- (2) The operation of a licensed vendor cart, any other activity authorized under Chapter 961 of the Code, or any activity associated with an encroachment license issued under Chapter 645 of the Code;
- (3) The operation of a food vending vehicle that meets the requirements of section 611-501 et seq. of the Code;
- (4) The sale of goods or services to benefit a charitable cause, organized and conducted by an organization that is exempt from the Indiana gross retail tax under IC 2.5-5-26, provided that:
  - a. The sale of goods or services occurs for no more than thirty (30) days in a calendar year;
  - b. Each person who engages in the sale of goods or services has in his or her possession a card or letter that identifies that person as being authorized by the organization to engage in such sales;
- (5) A garage sale, as provided under Article II of this chapter;
- (6) An auction of goods or services that originate primarily on the property where the auction occurs, and that were not moved to the property from another location for the purpose of sale at the auction, conducted by an auctioneer licensed under IC 25-6.1;
- (7) The sale of goods or services on commercial property that occurs during the regular hours of operation of the business located on the property;
- (8) The sale of newspapers; or



- (9) The transient merchant activity is occurring during a special event within a special event zone and the person or entity engaging in such activity has obtained a limited duration license from the ~~bureau of license and permit~~ division of construction and business services pursuant to Chapter 986 of the Code.

(c) If the transient merchant activity described in subsections (b)(4) and (b)(7) of this section occurs on private property, it shall not be exempt from the license requirement unless the person engaged in the transient merchant activity has written consent, dated and signed by the property owner, to use the property.

**Sec. 995-102. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section unless otherwise indicated clearly by text.

*Non-consensual tow* means the towing, by a tow business or tow truck operator, of a vehicle trespassing on a parking lot, made at the request of the property owner or the owner's authorized agent, without prior consent or authorization by the vehicle's owner. Notwithstanding the foregoing, the following are not included within the definition of a non-consensual tow:

- (1) A tow initiated from a parking lot, as a result of a vehicular accident or law enforcement investigation, by a representative of the city or by any law enforcement officer; or
- (2) A tow initiated from a parking lot by a college or university, provided that the college or university is accredited by the North Central Association, and further provided that the governing board of the college or university has adopted regulations applicable to vehicular parking on its parking lots.

*Parking lot* means and includes:

- (1) A vehicular parking lot built for, or provided to, patrons or staff of a business or other organization;
- (2) A commercial parking facility defined in section 931-101 of the Code;
- (3) A vehicular parking lot provided for tenants of multifamily dwellings; or
- (4) Vehicular parking provided by the property owner of a vacant or undeveloped lot.

*Property owner* means a person who exercises dominion and control over real property, including, but not limited to, the legal title holder, lessee, resident manager, property manager, or other agent who has legal authority to bind the owner.

*Tow or towing* means the act of attaching, lifting, pulling, or dragging any vehicle behind a tow truck that is doing such attaching, lifting, pulling, or dragging.

*Tow business* means a person or commercial entity that is engaged in, or offers, the service of towing or otherwise removing vehicles from one place to another by the use of a tow truck.

*Tow business license* means a license issued by the ~~bureau of license and permit~~ division of construction and business services to a business engaged in non-consensual towing of vehicles which originate within the city.

*Tow truck or tow vehicle* means any motor vehicle used for the purpose of towing or removal of vehicles.

*Tow truck operator* means the driver or operator of any tow truck.

*Vehicle* means a machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery, and shall include, without limitation, automobiles, trucks, trailers, motorcycles, tractors, buggies, wagons, and watercraft of any type designed to transport one (1) or more persons.

*Vehicle's owner* means the vehicle's registered owner, an authorized agent of the registered owner, or the driver of the vehicle.

**Sec. 995-201. License required; exception; fee.**

(a) It shall be unlawful for a tow business that performs non-consensual towing to perform a towing service originating within the city without first having been issued a license therefor by the ~~bureau of permit and licensing~~ division of construction and business services. The requirement for this license is made without regard to whether or not the towing business is physically headquartered within the boundaries of the city.

(b) Notwithstanding the provisions of subsection (a) of this section, a tow truck business that merely transports a vehicle through the city is exempt from this licensing requirement, provided that the tow does not originate within the city.

(c) The fee for a tow business license shall be provided in section 131-501 of the Code.

**Sec. 995-203. License application.**

(a) In general. Upon application for a tow business license, a tow business shall provide the following information to the ~~bureau~~ division, in addition to the information required under section 801-203 of the Code:

- (1) The tow business's taxpayer identification number;
- (2) The telephone number and e-mail address of the primary place of business;
- (3) The address, telephone number, and hours of operation of any vehicle storage facility where towed vehicles will be towed and stored;
- (4) A telephone number where the principal owner(s) of the tow business can be reached in the event of an emergency;
- (5) A copy of the vehicle registration for all tow vehicles owned, operated or otherwise controlled by the tow business; and
- (6) The name of each person employed or contracted by the tow business as a tow truck operator.

(b) Insurance. Upon application for the tow business license, a tow business shall provide proof of insurance, in an amount approved by the license administrator, as evidenced by a certificate of insurance that shows the following insurance coverage:

- (1) General liability insurance ("occurrence" based policy);
- (2) Automotive liability;
- (3) Garage keeper's insurance; and
- (4) Workers' compensation insurance that meets Indiana statutory requirements.

The ~~bureau~~ division must be provided notice in the event of cancellation or non-renewal of any of the above policies of insurance. The ~~bureau~~ division must also be provided notice regarding any changes, amendments or endorsements in the above policies. A copy of all new or amended policies must be provided to the ~~bureau~~ division within fifteen (15) days of the issuance of any new policies or amendments to any existing policies.

(c) Tow truck operators. Upon application for the tow business license, a tow business shall provide a copy of the state-issued valid driver's license of each person employed or contracted by the tow business to work as a tow truck operator.

(d) Vehicle storage facilities. The issuance of a tow business license is contingent upon the license administrator's approval of any proof submitted by the tow business that its vehicle storage facilities are secure.

(e) Amendment. In the event that information provided to the ~~bureau~~ division under this article changes during the term of the license, the tow business shall give written notice of such changes to the ~~bureau~~ division within fifteen (15) days of the occurrence of the change.

**Sec. 995-205. Tow truck operator identification.**

Upon the issuance of a tow business license, the ~~bureau~~ division shall issue identification to each of the licensee's tow truck operators that have been approved by the license administrator. Such identification shall be in a form approved by the license administrator, and must be in the possession of the tow truck operator at all times while operating a tow truck. In the event that a tow truck operator's state-issued driver's license is suspended or revoked, the identification must be surrendered immediately to the license administrator.

**Sec. 995-206. Tow business fee schedule.**

(a) A tow business license applicant shall prepare and file with the ~~bureau~~ division a schedule of fees, including incidental or associated fees, that the tow business may charge for the towing and storage of vehicles. The schedule must include fees for any service that the applicant may charge; including fees for service that may be requested by a vehicle's owner.

(b) Upon request, a tow truck operator shall present such schedule of fees for examination by a vehicle's owner.

(c) It shall be unlawful for a tow business to charge a fee in excess of, or for services not listed on, the schedule of fees filed with the ~~bureau~~ division. A fee schedule filed with the ~~bureau~~ division may be changed only upon ten (10) days written notice to the ~~bureau~~ division.

**Sec. 536-111. Definitions.**

Unless otherwise clearly indicated by the context, the terms defined in this section shall have the meanings ascribed to them in this section when used in this chapter and Chapter 875. If a term defined in this section is inconsistent or conflicts with any term defined in a rule promulgated by the fire prevention and building safety commission, then the term, as defined by the fire prevention and building safety commission, will be applied to the rules promulgated by the fire prevention and building safety commission and incorporated by reference under Article VIII of this chapter.

*Building equipment* means any machine, device, apparatus or material used as part of permanent heating, ventilation, air conditioning, electrical, plumbing sanitary, emergency detection, emergency communication, or fire or explosion systems.

*Building standards and procedures* means regulations, standards or requirements relative to either construction or the condition of existing structures or building equipment established by or under federal law, state law or city ordinances. Building standards and procedures shall specifically include rules promulgated by the Fire Prevention and Building Safety Commission, adopted herein by reference, and the substantive and procedural provisions of this chapter.

~~*Bureau of construction services* means the bureau of construction services of the department of code enforcement.~~

*Class 1 structure* means any part of the following:

- (1) A building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:
  - a. The public;
  - b. Three (3) or more tenants; or
  - c. One (1) or more persons who act as the employees of another;
- (2) A site improvement affecting access by persons with physical disabilities to a building or structure described in subdivision (1); or
- (3) Any class of buildings or structures that the Indiana Fire Prevention and Building Safety Commission determines by rules to affect a building or structure described in subdivision (1).

Class 1 structure includes a structure that contains three (3) or more condominium units (as defined in IC 32-1-6-2) or other units that:

- (1) Are intended to be or are used or leased by the owner of the unit; and
- (2) Are not completely separated from each other by an unimproved space.

Class 1 structure does not include a building or structure that:

- (1) Is intended to be or is used only for an agricultural purpose on the land where it is located; and
- (2) Is not used for retail trade or is a stand used for retail sales of farm produce for eight (8) or less consecutive months in a calendar year.

Class 1 structure does not include a Class 2 structure or a vehicular bridge.

*Class 2 structure* means any part of the following:

- (1) A building or structure that is intended to contain or contains only one (1) dwelling unit or two (2) dwelling units unless any part of the building or structure is regularly used as a Class 1 structure; or
- (2) An outbuilding for a structure described in subdivision (1), such as a garage, barn, or family swimming pool, unless any part of the outbuilding is regularly used as a Class 1 structure.

Class 2 structure does not include a vehicular bridge.

*Construction* means any of the following:

- (1) Fabrication of any part of an industrialized building system or mobile structure for use at another site;
- (2) Erection or assembly of any part of a Class 1 or Class 2 structure at the site where it will be used;
- (3) Installation of any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion suppression systems for a Class 1 or Class 2 structure at the site where it will be used;
- (4) Work undertaken to alter, remodel, rehabilitate, or add to any part of a Class 1 or Class 2 structure; or
- (5) Work undertaken to relocate any part of a Class 1 or Class 2 structure, except a mobile structure.

*Cooling system* means a system that utilizes a source of energy to accomplish the cooling (not below a constant temperature of sixty (60) degrees Fahrenheit) of more than one (1) partitioned space in a structure or to accomplish the cooling of all or part of a structure by distribution of air through ductwork extending more than twelve (12) inches from the appliance collars, or distribution of liquid or vapor through on-site piping.

~~*Bureau of license and permit services*~~ *Division of construction and business services* or ~~*bureau division*~~ means the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services.

~~*Division of inspections*~~ means the division of inspections of the department of code enforcement.

*Electrical power distribution system* means a system for the distribution of electrical current both within and on the exterior of a structure, from an electrical power source to receptacles or equipment that uses electricity; provided, however, that class 2 and class 3 circuits (as defined by the Indiana Electrical Code) shall not be considered part of an electrical power distribution system for purposes of this definition.

*Heating system* means a system that utilizes a source of energy including, but not limited to, electricity, fossil fuels, geothermal, solar and wind, to accomplish the warming of more than one (1) partitioned space in a structure or to accomplish the warming of all or part of a structure by distribution of air through ductwork extending more than twelve (12) inches from the appliance collars, or distribution of liquid or vapor through on-site piping; provided, however, that a structural design that utilizes largely natural means to cause flow of thermal energy from the sun to accomplish warming of all or part of a structure shall not be considered a heating system for purposes of this definition.

*Industrialized building system* means any part of a building or other structure that is in whole or in substantial part fabricated in an off-site manufacturing facility for installation or assembly at the building site as part of a Class 1 structure, a Class 2 structure, or another building or structure. However, the term does not include a mobile structure or a system that is capable of inspection at the building site.

*License administrator* means the license administrator as assigned by the deputy director of the division of construction and business services.

*Manufactured home* has the meaning set forth in 42 U.S.C. 5402 as it existed on January 1, 1984.

*Mobile structure* means any part of a fabricated unit that is designed to be:

- (1) Towed on its own chassis; and
- (2) Connected to utilities for year-round occupancy or use as a Class 1 structure, a Class 2 structure, or another structure.

The term includes the following:

- (1) Two (2) or more components that can be retracted for towing purposes and subsequently expanded for additional capacity; or
- (2) Two (2) or more units that are separately towable but designed to be joined into one (1) integral unit.

*One- or two-family residential structure* means a Class 2 structure.

*Ordinary maintenance and repair* means construction commonly accomplished in or on an existing structure for the purpose of preventing deterioration or performance deficiencies, maintaining appearance, or securing the original level of performance. Preventing deterioration or deficient performance shall include such activities as caulking windows, painting, pointing bricks, oiling machinery and replacing filters. Maintaining appearance shall include such activities as sandblasting masonry and cleaning equipment. Securing the original level of performance shall include such activities as replacing broken glass, patching a roof, disassembling and reassembling a piece of building equipment, welding a broken part and replacing a component of a heating system (but not a furnace) with an identical component. Ordinary maintenance and repair shall not include any construction that alters the prior or initial capacity, performance specifications, type of required energy or functional features of an existing structure or building equipment.

*Partnership or corporation* means a partnership, corporation, or other business association, including limited liability company, organized and authorized to do business under the laws of Indiana.

*Person* means an individual human being.

*Plumbing fixture* means a plumbing system that has a water supply, a drain or one that includes both a water supply and a drain, such as a water closet, lavatory, bathtub, and sink.

*Refrigeration equipment* means equipment that utilizes a source of energy to accomplish the cooling of a space or materials to a constant temperature below sixty (60) degrees Fahrenheit, typically for such purposes as food storage, mechanical fabrication, or industrial processing; provided, however, that plug-in electrical appliances such as freezers or icemakers that do not require more than twelve (12) amperes of current at a nominal one hundred fifteen (115) volts shall not be considered refrigeration equipment for purposes of this definition.

*Service equipment* means the necessary equipment, usually consisting of a circuit breaker or switch and fuses and their accessories, located near the point of entrance of electrical supply conductors to a structure or an otherwise defined area, intended to constitute the main control and means of cutoff of the electrical supply.

*Space cooling equipment* means equipment that utilizes a source of energy to accomplish the cooling (not below a constant temperature of sixty (60) degrees Fahrenheit) of an unpartitioned space within a structure in which the equipment is located without the use of duct work for the distribution of air extending more than twelve (12) inches beyond the appliance collars or the use of on-site piping for the distribution of liquid or vapor; provided, however, that plug-in electrical appliances such as window air conditioners that do not require more than twelve (12) amperes of

current at a nominal one hundred fifteen (115) volts shall not be considered space cooling equipment for purposes of this definition.

*Space heating equipment* means equipment that utilizes a source of energy including, but not limited to, electricity, fossil fuels, geothermal, solar and wind, to accomplish the warming of an unpartitioned space within a structure in which the equipment is located without the use of air distribution ductwork that extends more than twelve (12) inches beyond the appliance collars or the use of on-site piping for the distribution of liquid or vapor; provided, however, that the following shall not be considered space heating equipment for purposes of this definition:

- (1) Plug-in electrical appliances such as freestanding room heaters that do not require more than twelve (12) amperes of current at a nominal one hundred fifteen (115) volts;
- (2) Self-contained fireplaces; and
- (3) A structural design that utilizes largely natural means to cause flow of thermal energy from the sun to accomplish warming of all or part of a structure.

*Structure* means that which is built or constructed, such as an edifice or building of any kind, or any piece of work artificially built up or composed of parts formed together in some definite manner, or any part thereof. The word "structure" shall not include improvements such as public roadways or bridges.

**Sec. 536-121. Administration of building code.**

The director of the department of ~~code enforcement~~ business and neighborhood services, or his or her designee, shall administer and enforce the provisions of this chapter. Whenever in this chapter, it is provided that anything must be done to the approval of or subject to the direction of the director of the department of ~~code enforcement~~ business and neighborhood services or any other officer of the City of Indianapolis, this shall be construed to give such officer only the discretion of determining whether this Code has been complied with; and no such provisions shall be construed as giving any officer discretionary powers as to what this Code shall be, or power to require conditions not prescribed by ordinances or to enforce this chapter in an arbitrary or discriminatory manner. Any variance from adopted building rules promulgated by the fire prevention and building safety commission are subject to approval under IC 22-13-2-7.

**Sec. 536-124. Discretion to modify forms.**

The director of the department of ~~code enforcement~~ business and neighborhood services, or his or her designee, is authorized to modify any of the forms set forth in this Chapter 536 so long as the altered form requests the same basic information. The director, or his or her designee, for example, may replace questions, add reasonably related questions or explanatory material, reformat the form or combine the form with another form. The director, or his or her designee, may authorize the form to be completed, used or stored electronically.

**Sec. 536-201. When building permits required; enforcement.**

(a) Permit required. Except for construction specified in subsections (b) and (c), it shall be unlawful for a person, partnership or corporation to engage in any construction or demolition or removal of structures unless a written building permit issued by the ~~bureau of license and permit services~~ division of construction and business services describing the activity has been obtained by and is in force relative to the person, partnership or corporation that is actually accomplishing, supervising accomplishment or is contractually responsible for accomplishment of the construction allowed by the building permit. A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars (\$100.00), and each day that an offense continues shall constitute a separate violation. The controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the department of ~~code enforcement~~ business and neighborhood services.

(b) Exemptions for one- and two-family dwellings. With respect to Class 2 structures, the permit specified in subsection (a) shall not be required for:

- (1) Replacement of exterior prime doors and windows (limited to like for like in a wall opening of the same dimensions that does not reduce the egress required by code provision existing at the time the building was constructed) if performed by a listed contractor that complies with the notice and posting requirements of section 536-216; additionally, a person who owns or is purchasing a Class 2 structure on contract with

- intention to utilize the property for his or her own occupancy may likewise replace without permit prime doors and windows in such structure;
- (2) Replacement of an existing roof if performed by a listed contractor that complies with the notice and posting requirements of section 536-216; and that construction does not involve:
- a. A change in roof configuration;
  - b. A change in type of roof covering (e.g., tile roofing replacing asphalt shingles) that would increase the dead load on the structure;
  - c. The replacement of basic structural members that support the roof (e.g., replacement of a rafter or more than one hundred twenty-eight (128) feet of decking); or
  - d. The installation of heat-applied roofing material;

- Additionally, a person who owns or is purchasing a Class 2 structure on contract with the intention to utilize the property for his or her own occupancy may affix without permit a layer of replacement shingles to a single layer of existing shingles provided that a layer of shingles is not removed and provided that the total shingle-roof application is performed by the owner or contract purchaser with assistance only by noncompensated volunteers;
- (3) Installation and replacement of exterior siding if performed by a listed contractor that complies with the notice and posting requirements of section 536-216; additionally, a person who owns or is purchasing a Class 2 structure on contract with the intention to utilize the property for his or her own occupancy may attach without permit a layer of siding to the existing sheathing without removal of existing sheathing, provided that the total siding application is performed by the owner or contract purchaser assisted only by noncompensated volunteers;
- (4) Ordinary maintenance and repair of a structure where the work does not reduce performance or create additional health or safety risks as defined in section 536-111(i);
- (5) Installation and replacement of fixtures attached to the walls or floors such as cupboards, cabinets, shelving, railings, tracks, wall and floor coverings, and doors;
- (6) Installation, maintenance and repair of storm windows and other exterior windows designed and used as protection against severe weather;
- (7) Exterior repair or renovation of a masonry chimney above the roof line that does not reduce the size of the flue opening;
- (8) Gutter replacement or installation;
- (9) Attachment of window awnings to exterior walls where the awnings project not more than forty-eight (48) inches from any wall;
- (10) Installation of thermal insulation;
- (11) Installation of additional non-load bearing walls that do not result in the creation of sleeping rooms; provided however, permits are required (except as otherwise specifically exempted by provisions of this section) for electrical, heating and cooling, or plumbing work;
- (12) Replacement of an attic fan, bathroom exhaust fan, range hood exhaust fan or whole house fan;
- (13) Erection or installation of a fence or structural barrier in conformance with zoning requirements and any necessary certificates of appropriateness in a historic district;
- (14) Erection or installation of an aboveground swimming pool thirty (30) inches or less deep and fifteen (15) feet or less at its widest points;
- (15) Erection or installation of a deck where:

- a. No part of the floor is more than thirty (30) inches above finished grade; and
  - b. There is compliance with the assessor notification requirements of section 536-215;
- (16) Erection of retaining walls that are not over four (4) feet in height measured from the lowest finished grade to the top of the wall, unless the walls are supporting a surcharge;
  - (17) Erection of a structure that spans one hundred twenty (120) square feet or less of base area, is less than fifteen (15) feet in height, is not placed on or attached to a permanent foundation and does not contain an electrical power distribution system, heating system, space heating equipment, cooling system, or space cooling equipment;
  - (18) Ordinary maintenance and repair of building equipment where the work does not reduce performance or create additional safety or health risks;
  - (19) Installation of a single-phase electric circuit not exceeding sixty (60) amperes at a nominal 120/240 volts that involves the installation, modernization, replacement, service or repair of a heating system, space heating equipment, cooling system, space cooling equipment, a water heater or a food waste disposer for which a building permit has been issued;
  - (20) Installation of household appliances such as window air conditioners, refrigerators, refrigerators with automatic icemakers, ranges, microwave ovens, clothes washers, clothes dryers, dishwashers, food waste disposers and trash compactors when such installation does not include the installation of an electrical circuit;
  - (21) Replacement in kind of piping in a plumbing system when the replacement piping meets the same performance specifications and has the same capacity as the piping being replaced and not more than twenty (20) percent of all piping in the structure is replaced;
  - (22) Replacement of appliances, fixtures, traps and valves in a plumbing system;
  - (23) Replacement of a water heater with one (1) that is identical as to venting arrangement and type of fuel or energy input;
  - (24) Extension of heating or cooling duct work;
  - (25) Placement of a manufactured home not on a permanent foundation in a manufactured home park licensed by the Indiana State Department of Health;
  - (26) Initial connection or reconnection of plumbing to a manufactured home not placed on a permanent foundation located in a manufactured home park licensed by the Indiana State Department of Health;
  - (27) Erection of real estate signs advertising real estate for sale or for rent in conformance with the size limitations of the zoning ordinance governing signs; or
  - (28) Connection, provision or use of temporary electrical power for on-site construction.
- (c) Exemptions for commercial construction. With respect to Class 1 structures, permits specified in subsection (a) shall not be required for:
- (1) Ordinary maintenance and repair of a structure where the work does not reduce performance or create additional safety or health risks as defined in section 536-111(i);
  - (2) Installation, maintenance and repair of storm windows and other exterior windows designed and used as protection against severe weather;
  - (3) Attachment of window awnings to exterior walls where the awnings project not more than forty-eight (48) inches from any wall;
  - (4) Painting, papering and similar finish work;
  - (5) Installation of movable cases, counters and partitions not over sixty-nine (69) inches high;



- (6) Erection or installation of temporary motion picture, television and theater stage sets and scenery;
- (7) Installation of thermal insulation;
- (8) Erection or installation of a fence or structural barrier in conformance with zoning requirements and any necessary certificates of appropriateness in a historic district;
- (9) Erection or installation of an aboveground swimming pool thirty (30) inches or less deep and fifteen (15) feet or less at its widest points;
- (10) Erection or installation of platforms not more than thirty (30) inches above grade and not over any basement or story below;
- (11) Installation of water tanks supported directly upon grade if the capacity does not exceed five thousand (5,000) gallons and the ratio of height to diameter or width does not exceed two (2) to one (1);
- (12) Erection of oil derricks;
- (13) Erection of retaining walls that are not over four (4) feet in height measured from the lowest finished grade to the top of the wall, unless the walls are supporting a surcharge or used as a dike to impound flammable or combustible liquids or products that pose a health or safety risk (e.g., corrosives, oxidizers, poisons);
- (14) Erection of a structure that spans one hundred twenty (120) square feet or less of base area, is less than fifteen (15) feet in height, is not placed on or attached to a permanent foundation and does not contain an electrical power distribution system, heating system, space heating equipment, cooling system, or space cooling equipment;
- (15) Erection of any sign in conformance with zoning requirements;
- (16) Ordinary maintenance and repair of building equipment where the work does not reduce performance or create additional safety or health risks;
- (17) Connection, provisions or use of temporary electrical power for on-site construction;
- (18) Installation of household appliance such as window air conditioners, refrigerators, refrigerators with automatic icemakers, ranges, microwave ovens, clothes washers, clothes dryers, dishwashers, food waste disposers and trash compactors in apartment buildings when such installation does not include the installation of an electrical circuit;
- (19) Replacement in kind of piping in a plumbing system when the replacement piping meets the same performance specifications and has the same capacity as the piping being replaced and not more than twenty (20) percent of the piping in an area occupied by a single tenant in the structure is replaced;
- (20) Replacement of appliances, fixtures, traps and valves in a plumbing system; or
- (21) Replacement of a water heater with one (1) that is identical as to venting arrangement and type of fuel or energy input.

(d) Preservation districts. Provisions in subsection (b) or (c) that exempt those engaged in certain construction from the obligation to secure a building permit do not affect the possible obligation to secure a certificate of appropriateness for construction either in an historic area designated by the Indianapolis Historic Preservation Commission or in the Meridian Street Preservation District designated by the Indiana Code. While a building permit may not be required, a certificate of appropriateness from the Indianapolis Historic Preservation Commission or the Meridian Street Preservation Commission may be required in such an area.

(e) Flood control districts. Provisions in subsection (b) or (c) that exempt those engaged in certain construction from the obligation to secure a building permit do not affect the possible obligation to secure a floodplain development permit for construction in the flood control districts as designated by Chapter ~~735~~ 742, Article ~~III~~ II, of the Code. While a building permit may not be required, a floodplain development permit may be required in such areas.

**Sec. 536-202. Eligibility to obtain and apply for a building permit.**

(a) To obtain a building permit a person, partnership or corporation must meet the requirements of paragraphs (1) through (5) below and must be the person, partnership or corporation that will either actually accomplish, supervise accomplishment or be contractually responsible for accomplishment of the construction allowed by the building permit:

- (1) Any person, partnership or corporation that is a listed contractor under Article I of Chapter 875 may:
  - a. Obtain a building permit to accomplish any construction except work for which Articles II, III or IV of Chapter 875 require licensure or IC 25-28.5-1 requires a state license; or
  - b. Obtain a master building permit under sections 536-203 or 536-204;
- (2) Any person, partnership or corporation licensed under Articles II, III or IV of Chapter 875 may obtain a building permit solely to accomplish construction allowed by the license or type of license held by the person, partnership or corporation;
- (3) Any person or corporation registered under Article V of Chapter 875 may obtain a building permit solely to accomplish construction for which state licensure as a plumbing contractor is required;
- (4) Any person who is either a registered architect or registered engineer licensed to practice in the State of Indiana may obtain a building permit to accomplish any construction for which a design release is required and has been given by the office of the state building commissioner. Such architect or engineer, however, may not obtain a building permit for work relative to which Articles II, III or IV of Chapter 875 require a license; and
- (5) Any person, partnership or corporation that owns, is a contract purchaser or is a long-term lessee of an improved or unimproved parcel of land that the person, partnership or corporation intends to utilize for its own purposes (e.g., permanent business location, place of residence, rental property that the owner is obligated to maintain) may obtain a building permit to accomplish construction on such parcel carried out through direct efforts of:
  - a. The person;
  - b. One (1) or more employees of the person, partnership or corporation (including temporary employees hired to do construction work); or
  - c. Persons who volunteer to work on the construction and who are not compensated for their services.

Such a person, partnership or corporation may not obtain a building permit to wreck a structure for which Article IV of Chapter 875 requires licensure. Such a person, partnership or corporation may not obtain a building permit for work relative to which IC 25-28.5-1 requires a state license. The requirements of section 875-222 and section 875-321 must be met for such a person, partnership or corporation to obtain a building permit to accomplish construction relative to which Articles II and III of Chapter 875 require licensure. In addition, any person, partnership or corporation that owns, is a contract purchaser or is a long-term lessee of an improved or unimproved parcel of land that the person, partnership or corporation intends to utilize for its own purposes (e.g., permanent business location, place of residence, rental property that the owner is obligated to maintain) may obtain a building permit to allow construction on such parcel to be carried out by one (1) or more listed contractors as long as a single listed contractor is not responsible for all of the construction to be done on the parcel. Such a person, partnership or corporation may not obtain a permit to demolish or remove a structure for which Article IV of Chapter 875 requires licensure. Such a person, partnership or corporation may not obtain a building permit for work relative to which IC 25-28.5-1 requires a state license. The requirements of section 875-222 and section 875-321 must be met for such a person, partnership or corporation to obtain a building permit to accomplish construction relative to which Articles II and III of Chapter 875 require licensure.

(b) Application for a building permit may be made by the person entitled to obtain the permit or by an employee of the person, partnership or corporation entitled to obtain the permit, or by an employee of a company in the business of obtaining permits for persons, partnerships and corporations listed or licensed under provisions of this chapter. ~~The bureau of license and permit services~~ division of construction and business services may require that an employee or agent provide written authority to apply for the permit.

**Sec. 536-203. Master permit.**

A person, partnership or corporation listed as a contractor under section 875-106 may elect to obtain a master permit for all construction occurring at a structure. (However, the ~~bureau of license and permit services~~ division of construction and business services is not obligated to start issuing master permits until computer equipment and programs needed to make issuance of such permits practicable and effective have been secured.) The master permit shall identify all construction to occur at the structure and shall be the sole permit needed to accomplish all work identified on the permit at the structure. The person, partnership or corporation obtaining the master permit shall be responsible for all construction occurring at the structure, including code compliance for all construction for which Articles II, III or IV of Chapter 875 of this Revised Code require licensure or IC 25-28.5-1 requires a state license.

**Sec. 536-205. Building permits obtained by written application.**

(a) Application for a building permit shall be made to the ~~bureau of license and permit services~~ division of construction and business services. The application shall be made in accordance with this section, unless each and every requirement of section 536-209 is met and the administrator as assigned by the deputy director of the division decides to issue a building permit on the basis of that section.

(b) The application shall be in writing on a form prescribed by the ~~bureau of license and permit services~~ division of construction and business services and shall be supported with:

- (1) Two (2) copies of detailed plans and specifications drawn to scale that indicate in a precise manner the nature and location of all work to be accomplished pursuant to the building permit. In lieu thereof, it shall be within the discretion of the administrator as assigned by the deputy director of the bureau division to accept two (2) copies of a written statement indicating the nature and location of the work to be done pursuant to the building permit where such written statement describes the work as precisely as a copy of detailed plans and specifications drawn to scale.
- (2) Two (2) copies of a plot plan drawn to scale that reflect the location of the structure in relation to existing property lines and that show streets, curbs and sidewalks and proposed changes or additions to such streets, curbs and sidewalks; provided, however, such plot plan shall not be required in the instance where all of the construction is to occur inside an existing structure.
- (3) An improvement location permit, issued by the ~~bureau~~ division, if required by the ordinance providing for the improvement location permit.
- (4) Written approval from the Marion County Health and Hospital Corporation for any contemplated private sewage disposal system.
- (5) Design release from the office of the state building commissioner, in concurrence with the state fire marshal, if required by Indiana law or any rule of the fire prevention and building safety commission.
- (6) A drainage permit, issued by the division of ~~bureau~~ division, if required by the ordinance providing for a drainage permit.
- (7) A connection permit, issued by the ~~bureau~~ division, if required by the ordinance requiring a permit for connection to a sewer.

(c) In the instance where a building permit is requested for the purpose of allowing the demolition or removal of a structure, such application shall be supported with a written statement from each utility that its service to the premises has been disconnected, and with either a written statement from the record titleholder of such premises authorizing the demolition or removal or a court order or administrative order requiring the demolition or removal of the structure.

(d) In the instance where a building permit is requested for the purpose of allowing the demolition or removal of a structure that is in excess of seventy-five (75) feet in height, such application shall be supported by a certificate of insurance reflecting that the obtainer of the building permit has a public liability and property damage insurance policy naming the licensee and the Consolidated City of Indianapolis as the assured and providing also for the payment of any liability imposed by law on such licensee or the Consolidated City of Indianapolis in the minimum amounts of one million dollars (\$1,000,000.00) for any occurrence relative to which there is injury to or death of one

(1) or more persons and five hundred thousand dollars (\$500,000.00) for any occurrence relative to which there is property damage.

(e) In the instance where a building permit is requested for the purpose of constructing a swimming pool, such application shall include the name of the person responsible for constructing the required fence or safety pool cover.

(f) Except as provided in section 536-701 or 536-702, a building permit shall be issued if:

- (1) The application and supporting information required by this section have been properly prepared and submitted;
- (2) The application and supporting information filed in accordance with this section reflect compliance with building standards and procedures;
- (3) The fee has been paid in compliance with Article VI of this chapter;
- (4) The person, partnership or corporation obtaining the building permit complies with the requirements of section 536-202; and
- (5) The person applying for the building permit complies with the requirements of section 536-202.

(g) By making payment for the building permit, the applicant and obtainer shall be deemed to represent and certify that the information contained in that permit is complete and accurate, unless the applicant or obtainer shall within ten (10) days provide in writing to the ~~bureau of license and permit services~~ division of construction and business services any additions or corrections to that information.

**Sec. 536-208. Examination of detailed plans and specifications.**

The purpose of any examination of detailed plans and specifications and plot plans shall be to determine consistency with building standards and procedures. Design characteristics not affecting consistency with building standards and procedures shall not be considered in any examination of detailed plans and specifications and plot plans. Issuance of a building permit relative to plans that do not comply with building standards and procedures shall not relieve the person, partnership or corporation who applied for or obtained the building permit of the responsibility of complying with all building standards and procedures. The ~~bureau of license and permit services~~ division of construction and business services shall file-mark all acceptable plans "plans received and application approved" and then return one (1) copy of the detailed plans and specifications and one (1) copy of the plot plan to the applicant.

**Sec. 536-209. Permits obtained by a telephone communication or facsimile machine.**

(a) The administrator as assigned by the deputy director of the division may, but is not required to, issue a permit on the basis of information received by a telephone call over a specified telephone line in the office of the ~~bureau of license and permit services~~ division of construction and business services (to which may be attached a recording device to make a record of all information supplied) or on the basis of an application submitted by facsimile machine over a specified telephone line in the office of the ~~bureau~~ division.

(b) To receive a permit on the basis of a telephone communication or facsimile, all of the following requirements must be met:

- (1) The person, partnership or corporation obtaining the permit and the person applying for the permit are eligible to obtain and apply for a building permit pursuant to section 536-202, and:
  - a. Have accomplished construction in the consolidated city for a period of the preceding twelve (12) calendar months without a violation of building standards or procedures that caused a revocation of a building permit pursuant to section 536-704; issuance of and failure to correct violations cited in a stop-work order pursuant to section 536-705; issuance of an order forbidding occupancy pursuant to section 536-706; initiation of a civil action filed pursuant to section 536-707; forfeiture of a licensing bond pursuant to section 536-708; or a judicially imposed fine or imprisonment pursuant to section 536-709; and
  - b. Have over the period of the previous one hundred eighty (180) days made prompt payment of all building permit fees for permits issued under this chapter;

- (2) The construction is being accomplished in or on an existing structure;
- (3) The construction does not involve the demolition or removal of a structure;
- (4) The construction does not require the issuance of a design release by the office of the state building commissioner;
- (5) An improvement location permit, issued by the ~~bureau of license and permit services~~ division of construction and business services, is not required;
- (6) Approval of the Marion County Health and Hospital Corporation for a private sewage disposal system is not required;
- (7) The construction does not require a drainage permit; and
- (8) The construction is susceptible to being accurately described without the aid of either a plot plan or detailed plans and specifications.

(c) The following information shall be supplied over the specified telephone line in order to obtain a building permit under this section 536-209:

- (1) The name of the person telephoning (applicant);
- (2) The name, and listing or license number of the contractor in whose name the requested building permit is being issued (obtainer);
- (3) The address of the construction;
- (4) A precise description of the construction to be accomplished; and
- (5) The value of the construction.

(d) The obtainer of the building permit shall remit fees for the permit and for obtaining the permit by telephone communication or facsimile machine as provided in section 131-501 of the Code, along with a written application (as provided for in section 536-205) to the ~~bureau of license and permit services~~ division of construction and business services within five (5) business days following the date of the permit's issuance by check or money order made payable to the controller of the City of Indianapolis. The permit number shall be clearly marked on the face of the check or money order. Payment shall be made in the office of the ~~bureau~~ division or through the United States Postal Service. If mailed, the postmark on the envelope shall be evidence of compliance with the five-day remittance requirement. If payment is not received within five (5) business days, the permit shall be voidable by order of the administrator. If a permit issued under this section is voided, no further construction shall be accomplished under that permit.

(e) The building permit obtained in accordance with this section shall be in full force and effect at the time a building permit number is furnished by the ~~bureau of license and permit services~~ division of construction and business services over the telephone line to the applicant. Following the issuance of the building permit in accordance with this section, the ~~bureau~~ division shall, as soon as conveniently possible after the payment of the permit fee, mail a copy of the building permit document to the applicant for the building permit.

(f) By making payment for the building permit, the applicant and obtainer shall be deemed to represent and certify that the information contained in that permit is complete and accurate, unless the applicant or obtainer shall within ten (10) days provide in writing to the ~~bureau of license and permit services~~ division of construction and business services any additions or corrections to that information.

**Sec. 536-210. Permit and file-marked plans to be available.**

Any person, partnership or corporation to which a building permit has been issued shall prominently display such permit or a document bearing the permit number provided by the ~~bureau of license and permit services~~ division of construction and business services that evidences permit issuance, or, in the instance of a permit obtained by telephone communication, a paper bearing the authorization number, at the job site during construction. If required to submit detailed plans and specifications in order to obtain a building permit such person, partnership or corporation shall have

available for inspection at all times a copy of the detailed plans and specifications bearing the file mark of the ~~bureau~~ division. Any change in such detailed plans and specifications, except for minor deviations that neither diminish structural quality nor would cause noncompliance with applicable building standards and procedures, shall be filed with and approved by the ~~bureau~~ division prior to the time construction involving the change occurs.

**Sec. 536-211. Transfer of building permits; fee.**

(a) A building permit may be transferred with the approval of the administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services to a person, partnership or corporation that would be eligible under section 536-202 to obtain such building permit in the first instance (hereinafter called "transferee"), after both the payment of a fee and the execution and filing of a form furnished by the ~~bureau~~ division. Such transfer form shall contain, in substance, the following certifications, release and agreement:

- (1) The person who obtained the original building permit or a person who is employed by and authorized to act for the obtainer (hereinafter called "transferor") shall:
  - a. Certify under penalties for perjury that such person is familiar with construction accomplished pursuant to the building permit; such person is familiar with the building standards and procedures applicable to the construction; and to the best of such person's knowledge, information and belief the construction, to the extent performed, is in conformity with all building standards and procedures; and
  - b. Sign a statement releasing all rights and privileges secured under the building permit to the transferee.
- (2) The transferee shall:
  - a. Certify that the transferee is familiar with the information contained in the original building permit application, the detailed plans and specifications, the plot plan and any other documents filed in support of the application for the original building permit;
  - b. Certify that the transferee is familiar with the present condition of the premises on which construction is to be accomplished pursuant to the building permit; and
  - c. Agree to adopt and be bound by the information contained in the original application for the building permit, the detailed plans and specifications, the plot plan and other documents supporting the original building permit application; or in the alternative, agree to be bound by such application plans and documents modified by plan amendments submitted to the ~~bureau~~ division for approval.

(b) The transferee shall assume the responsibilities and obligations of and shall comply with the same procedures required of the transferor (including, but not being limited to, the requirement of section 536-301 that a certificate of completion and compliance be executed and filed and the requirement of sections 536-402 and 536-403 that further construction not be accomplished without notice of and opportunity for inspection at certain stages) and shall be subject to any written orders issued by the administrator as assigned by the deputy director or his or her authorized representative.

(c) A permit for construction at a specified location may not be transferred to construction at a different location.

(d) The fee for transfer of a building permit shall be provided in section 131-501 of the Code.

**Sec. 536-213. Expiration of building permits by operation of law; extensions.**

(a) If construction, other than activity involving the removal of all or part of a structure, has not been commenced within one hundred eighty (180) days from the date of issuance of the building permit, the permit shall expire by operation of law and shall no longer be of any force or effect; provided, however, the administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services may, for good cause shown in writing, extend the validity of any such permit for an additional period that is reasonable under the circumstances to allow commencement of the construction. In no event shall the extension exceed a period of sixty (60) days.

(b) If the construction has been commenced but only partially completed, and thereafter substantially no construction occurs on the construction-site over a period of one hundred eighty (180) days, the permit shall expire

by operation of law and no longer be of any force or effect; provided, however, the administrator may, for good cause shown in writing, extend the validity of any such permit for an additional period that is reasonable under the circumstances to allow resumption of construction.

(c) If construction involving removal of a structure or part of a structure has not been completed within the following time periods, the building permit shall expire by operation of law and shall no longer be of any force or effect:

- (1) Removal of all or part of a Class 2, thirty (30) days after issuance; and
- (2) Removal of all or part of a Class 1 structure, sixty (60) days after issuance. Provided, however, the administrator as assigned by the deputy director of the ~~bureau~~ division may, for good cause shown in writing, extend the validity of any such permit for an additional period that is reasonable under the circumstances up to forty-five (45) days in length.

(d) An extension granted under this section shall be confirmed in writing.

**Sec. 536-214. Defacing permit.**

It shall be unlawful for any person, other than an employee of the ~~bureau of license and permit services~~ division of construction and business services, to intentionally remove, deface, obscure, mutilate, mark or sign a posted building permit or a document bearing the permit number provided by the ~~bureau~~ division that evidences permit issuance without authorization from the administrator as assigned by the deputy director of the ~~bureau~~ division or his or her authorized representative, until fifteen (15) calendar days after both the construction is completed and the ~~bureau~~ division is notified of such completion.

**Sec. 536-216. Posting of contractor notification form at work site, notification to division and owners.**

(a) Prior to the commencement of construction for which a listed contractor is not required to obtain a building permit because of an exemption provided in paragraphs (1), (2) or (3) of subsection (b) of section 536-201, the listed contractor shall complete the notification form prescribed in subsection (b), place the form on the site as specified in subsection (c) and notify the ~~bureau of license and permit services~~ division of construction and business services as specified in subsection (d).

(b) The form shall be made of a reasonably durable material and shall contain the following information:

- (1) Listing number assigned to the contractor by the city;
- (2) Name of contractor;
- (3) A description of the construction that is exempt from the building permit requirements;
- (4) Address of the construction;
- (5) Date when the construction will be initiated;
- (6) Certification by the contractor or an employee of the contractor that the contractor is listed, has a current bond and insurance, and is the contractor doing the construction at the job site;
- (7) Verification number, if any, provided by the ~~bureau of license and permit services~~ division of construction and business services to the contractor when notice of the construction was given to the division by the contractor;
- (8) Signature of the owner (or a responsible person acting for the owner) indicating that the owner is aware that the division of ~~inspections~~ construction and business services will make an inspection of the construction at the request of the owner; and
- (9) Notice to the owner of the owner's right to request an inspection of the construction within ninety (90) days of completion.

The listing number shall be at least one (1) inch in height. The form shall include a notice indicating how the listing of the contractor can be verified by communicating with the ~~bureau of license and permit services~~ division of construction and business services and how the owner can secure an inspection of the construction by the division of ~~inspections~~ construction and business services. The administrator as assigned by the deputy director of the ~~bureau~~ division shall specify the size, format, text and color of the form.

(c) The listed contractor shall place a copy of the completed contractor notification form at a prominent location at the work site where it can be easily seen and would be noticed. It is not necessary to post the notification form as required by subsection (a) if a building permit has been secured and is posted at the job site in accordance with section 536-210 of this chapter. The notification shall remain posted until the completion of the construction.

(d) The listed contractor shall deliver to the ~~bureau of license and permit services~~ division of construction and business services a copy of the notification form specified in subsection (b).

**Sec. 536-217. Notice of change in permit information; amendment of permits and plans.**

(a) After a permit has been issued, the permittee shall give prompt written notice to the administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services of any addition to or change in the information contained in the permit application.

(b) After a permit has been issued, any material deviation or change in the information contained in the permit application, the plans and specifications, or the plot plans shall be considered an amendment subject to approval by the ~~bureau~~ division. Prior to the time construction involving the change occurs, the permittee shall file with the ~~bureau~~ division a written request for amendment, including a detailed statement of the requested change and the submission of any amended plans.

(c) The administrator shall give the permittee written notice that the request for amendment has been approved or denied, and if approved, copies of the amended application or plans shall be attached to the original application or plans. Reinspection fees or other fees that are occasioned by the amendment shall be assessed and paid in the same manner as for original permits or plans.

**Sec. 536-301. Filing of certificate of completion and compliance.**

Within fourteen (14) days after completion of the construction for which a building permit has been issued pursuant to the provisions of this chapter and prior to the occupancy or use of the structure, the obtainer of the building permit (or an employee of the obtainer who is authorized to act for the obtainer) for such construction shall execute and file a certificate of completion and compliance with the ~~bureau of license and permit services~~ division of construction and business services. Such certificate shall be in the following form:

**CERTIFICATE OF COMPLETION AND COMPLIANCE**

Address of premises on which construction activity was accomplished:

\_\_\_\_\_

Permit number: \_\_\_\_\_

The undersigned person hereby certifies under the penalties for perjury that:

1. I obtained the above referenced building permit or am an employee of the obtainer, and
2. I am familiar with the construction accomplished pursuant to that building permit, and
3. I know such construction has been completed with exceptions here noted \_\_\_\_\_, and
4. I am familiar with building standards and procedures applicable to such construction, and
5. To the best of my knowledge, information and belief such construction has been performed in conformity with all building standards and procedures.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_ Typed or printed name \_\_\_\_\_



July 18, 2016

Electrical, heating and cooling or wrecking contractor license number, plumbing contractor registration number, contractor listing number, or registered architect or registered engineer registration number:

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If a registered architect or registered engineer has properly executed and delivered or mailed an architect's or engineer's certificate of completion and compliance pursuant to section 536-303, he or she shall not be required to file the above certificate of completion and compliance.

**Sec. 536-302. Filing of certificate of completion and compliance for work done under a master permit.**

Within fourteen (14) days after the completion of construction for which a master building permit has been issued pursuant to the provisions of this chapter and prior to the occupancy or use of the structure, the obtainer of the master permit (or an employee of the obtainer authorized to act for the obtainer) shall execute and file a certificate of completion for work done under a master permit with the ~~bureau of license and permit services~~ division of construction and business services. All licensed or registered subcontractors who worked on the structure shall also execute the certificate. Such certificate shall be in the following form:

**CERTIFICATE OF COMPLETION AND COMPLIANCE FOR WORK DONE UNDER A MASTER PERMIT**

Address of premises on which construction was accomplished: \_\_\_\_\_

Permit Number: \_\_\_\_\_

The undersigned person(s) hereby certify under the penalties for perjury that:

1. I either:
  - (a) Obtained the above referenced building permit (or am an employee of the obtainer); or
  - (b) Am a licensed or registered subcontractor who performed work on the structure; and
2. I am familiar with that part of the construction accomplished pursuant to that building permit that is indicated below; and
3. I know the construction indicated below has been completed with exceptions noted below; and
4. I am familiar with building standards and procedures applicable to such construction; and
5. To the best of my knowledge, information and belief, such construction indicated below has been performed in conformity with all building standards and procedures.

---

Structural

Listing #

Exception to work done

Signature

Typed or printed name

Date

---

Electrical

License #

Exception to work done

Signature

Typed or printed name

Date

---

Heating and Cooling

License #

Exception to work done

Signature

Typed or printed name

Date

---

Plumbing

Registration #

Exception to work done

Signature

Typed or printed name

Date

---

Wrecking

License #

Exception to work done

Signature

Typed or printed name

Date

**Sec. 536-303. Filing of architect's or engineer's certificate of completion and compliance.**

Within fourteen (14) days after the completion of construction for which a building permit was issued pursuant to this chapter and for which review and monitoring of construction by an architect or engineer is required by the rules of the fire prevention and building safety commission, the architect or engineer who observed the construction accomplished pursuant to the permit shall execute and file an architect's or engineer's certificate of completion and compliance with the ~~bureau of license and permit services~~ division of construction and business services in the following form:

**ARCHITECT'S AND ENGINEER'S CERTIFICATE OF COMPLETION AND COMPLIANCE**

Address of construction: \_\_\_\_\_

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Permit number: \_\_\_\_\_

The undersigned architect or engineer hereby states under penalties for perjury that:

July 18, 2016

1. I have made reasonable and periodic observation of the above mentioned construction project to determine whether the work accomplished is in accordance with the plans and specifications for this project as released by the Office of the State Building Commissioner and whether the work accomplished is in compliance with rules promulgated by the Indiana Fire Prevention and Building Safety Commission and provisions of Chapter 536 of the Revised Code of the Consolidated City and County, with the following exceptions hereafter noted:

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2. I am familiar with such building standards and the provisions of Chapter 536 applicable to the work accomplished; and

3. To the best of my knowledge, information and belief such work has been accomplished in conformity with such building standards promulgated by the Office of the State Building Commissioner and the provisions of Article III of Chapter 536.

Date:

Signature:

SEAL

Typed name:

Architect No.:

Engineer No.:

Indiana Registration No.:

Address:

Phone number:

**Sec. 536-401. General authority to make investigations and inspections.**

The administrator as assigned by the deputy director of the ~~bureau of construction services~~ division of construction and business services or his or her authorized representative may at any reasonable time go in, upon, around or about the premises where any structure or building equipment subject to the provisions of this chapter or to the rules of the fire prevention and building safety commission is located (irrespective of whether a building permit has been or is required to be obtained) for the purpose of investigation and inspection of such structure or building equipment. Such investigation and inspection may be made either before or after construction on the project is completed for the purposes of determining whether the structure or building equipment meets building standards and procedures, and ascertaining whether the construction and procedures have been accomplished in a manner consistent with a certificate filed pursuant to sections 536-301, 536-302, 536-303 or 536-404(b)(3). All construction shall be subject to periodic inspections, and reasonable efforts to afford an opportunity for investigation and inspection of the structure or building equipment by the ~~bureau of construction services~~ division of construction and business services shall be made by persons working on or having control of the construction. However, nothing in this section shall be construed to require the administrator to make inspections and investigations.

**Sec. 536-402. Notice of availability for inspection as a condition to the accomplishment of further work.**

(a) Whenever a stage of construction is reached that is designated below, the person, partnership or corporation that obtained the permit shall be under a duty to give appropriate notice to the administrator as assigned by the deputy director of the ~~bureau of construction services~~ division of construction and business services that the construction is available for inspection.

(b) Relative to the construction of, remodeling of or addition to a structure, notice of availability is required, as applicable, for:

- (1) A "foundation inspection" after poles or piers are set, trenches or basement areas excavated, any required reinforcing steel is in place, but prior to the placing of concrete; and
- (2) A "frame and masonry inspection" after the roof, masonry, all framing, firestopping and bracings are in place and all electrical wiring, pipes, chimneys and vents are complete, but prior to the interior covering of walls.

(c) Relative to the installation, modernization or replacement of building equipment (including but not limited to plumbing work for which licensure is required by the Indiana Plumbing Commission, or work on electrical power distribution systems, heating systems, space heating equipment, cooling systems or space cooling equipment), notice of availability for a separate "rough inspection" is required, as applicable, for each of the three (3) crafts after installation, but prior to the covering or concealment thereof and before fixtures are set.

(d) Relative to demolition or removal of a structure, notice of availability for a "fill inspection" is required (in the instance when a basement or subgrade chamber exists) after demolition or removal and prior to placing fill.

(e) The administrator or the administrator's authorized representative may, relative to any construction, add a reasonable number of other construction stages by communicating the additional stage requirements to the person obtaining the building permit for that construction.

(f) Notice of availability shall be given either by telephone communication over a specified telephone line in the office of the ~~bureau of construction services~~ division of construction and business services (to which may be attached a recording device to make a record of all information supplied), by electronic means, by hand-delivered written notice or by a letter delivered by the United States Postal Service.

**Sec. 536-403. Requirement that construction remain available for inspection.**

(a) Whenever a stage of construction designated in section 536-402 is reached, no person shall take any action or accomplish any additional construction that would substantially impede the opportunity of the administrator as assigned by the deputy director or the administrator's authorized representative to inspect that stage of construction for a period of at least forty-eight (48) hours after notice of the availability for inspection has been received during business hours in the ~~bureau of construction services~~ division of construction and business services or until after an inspection is made, whichever first occurs; provided, however, if the forty-eight-hour period expires on a Saturday, Sunday, or legal holiday, the construction shall remain available for inspection until 5:00 p.m. on the next regular business day or until after an inspection is made, whichever first occurs. The forty-eight-hour period shall begin to run upon actual receipt of the notice during business hours but shall not run during any day when an inspection attempt by a representative of the ~~bureau of construction services~~ division of construction and business services is unsuccessful because the work is not accessible.

(b) A person, partnership or corporation may, however, pour a foundation two (2) hours after notification is received in the office of the ~~bureau of construction services~~ division of construction and business services. If a foundation is so poured, the remainder of the excavation must remain open for a period of forty-eight (48) hours from the time when notice is received and the person, partnership or corporation must assist an inspector in making the excavation available for proper inspection; provided, however, if the forty-eight-hour period expires on a Saturday, Sunday, or legal holiday, the remainder of the excavation shall remain open until 5:00 p.m. on the next regular business day or until after an inspection is made, whichever first occurs.

**Sec. 536-404. Connection, provision or use of electrical power.**

(a) No person, partnership or corporation shall accomplish or allow the connection, provision or use of electrical power relative to an electrical power distribution system in or on a structure where construction (for which a building permit has been or is required to be obtained pursuant to this chapter) has been accomplished, until after an inspection has been made and a distinctive sticker (signifying the electrical power distribution system may be used) has been attached to each service equipment by the administrator as assigned by the deputy director or the administrator's authorized representative. It shall be unlawful for any person other than the administrator or the administrator's authorized representative to use, complete, apply or alter such sticker.

(b) As an alternative to section 536-404(a), the administrator as assigned by the deputy director of the ~~bureau of construction services~~ division of construction and business services may allow the connection, provision or use of electrical power on the basis of certification by a person who is a licensed electrical contractor if all of the following requirements are met:

- (1) After the completion of the work and before use of the electrical power distribution system is initiated, the licensed electrical contractor who applied for the building permit shall communicate over a specified telephone line in the office of the ~~bureau of construction services~~ division of construction and business services during business hours (to which the ~~bureau of construction services~~ division of construction and business services may attach a recording device to make a record of all information supplied) the following information:

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- a. The name of the person telephoning;
  - b. The electrical contractor license number of the person telephoning;
  - c. The address of the affected premises;
  - d. The building permit number under which the construction was accomplished; and
  - e. The serial number of the electrical craft work certificate of compliance form to be used.
- (2) If such information is in order and if the licensed electrical contractor has accomplished construction for a period of the preceding twelve (12) calendar months without violation of building standards or procedures that in the discretion of the administrator are of sufficient seriousness to make the contractor ineligible to use the certificate, the ~~bureau of construction services~~ division of construction and business services shall indicate over the specified telephone line authorization to attach a certificate to each service equipment and assign an authorization number to be placed on each certificate by the licensee.
- (3) A certificate, in the following form, must then be executed and attached to each service equipment as a precondition to the connection, provision or use of electrical power.

#### ELECTRICAL CRAFT WORK CERTIFICATE OF COMPLIANCE

Address of the craft work: \_\_\_\_\_

Serial number: \_\_\_\_\_

Permit number: \_\_\_\_\_

Authorization number: \_\_\_\_\_

The undersigned licensee hereby certifies under the penalties for perjury that:

1. I am an electrical contractor licensed in accordance with Chapter 875 of the Revised Code of Indianapolis-Marion County, Indiana;
2. I am responsible for the proper completion of the construction which is the subject of the above referenced building permit as applicant for the permit or applicant representing the transferee of the permit; and
3. I have either personally accomplished or personally inspected all such construction, or in the alternative, I have caused the construction to be inspected by a responsible and competent employee who works under my direction and control, who has fully reported to me the condition of the construction; and
4. I know that such construction is in condition for immediate connection on the date stated below; and
5. I am familiar with building standards and procedures applicable to such construction; and
6. I know that such construction has been done in compliance with all building standards and procedures; and
7. I acknowledge and understand that if such construction is done in violation of building standards and procedures, that under the provisions of Chapter 875 my electrical contractor's license may be suspended or revoked.

Date certificate attached to service equipment:

Signature:

Electrical contractor license number:

Typed or printed name:

After the signatory attaches a certificate to each service equipment, such person shall cause a duplicate copy of each certificate to be either delivered to the ~~bureau of construction services~~ division of construction and business services or postmarked no later than the next business day by the United States Postal Service.

(c) It shall be unlawful for any person, partnership or corporation to accomplish the connection, provision or use of electrical power relative to an electrical power distribution system without first receiving authorization from the ~~bureau of construction services~~ division of construction and business services either by telephone communication and attachment of an electrical craft work certificate of completion and compliance or by the distinctive sticker described in section 536-404(a).

(d) Nothing stated in this section shall be construed to deny the right of the ~~bureau of construction services~~ division of construction and business services to inspect the electrical power distribution system to which electrical power is connected either before or after such connection is made or before or after the electrical power distribution system is used.

(e) Electrical craft work certificates of completion and compliance may be purchased only by a licensed electrical contractor who is eligible to use such forms from the ~~bureau of license and permit services~~ division of construction and business services, for a fee specified in Article VI of this chapter. Each certificate form shall bear a different serialized number that shall be recorded by the ~~bureau~~ division along with the name and licensure number of the electrical contractor who purchases the form. The certificate may only be signed and attached by the licensed electrical contractor who purchased it from the ~~bureau~~ division. It shall be unlawful to sell or transfer such certificate and unlawful to use, complete, sign or attach such a certificate except as prescribed in this section.

**Sec. 536-405. Inspection of Class 2 structures at request of owner.**

An owner of a Class 2 structure or a contract purchaser of such a structure who occupies the structure may request the ~~bureau of construction services~~ division of construction and business services to inspect construction that has been completed within the preceding ninety (90) days on that structure. The request may be made irrespective of whether a building permit was required, or if required, whether a permit was obtained. The ~~bureau of construction services~~ division of construction and business services shall accomplish an inspection if reasonably practicable. The person requesting the inspection must be willing to be present during the inspection. No charge shall be made for the inspection.

**Sec. 536-501. Inspection of existing public, institutional, commercial and industrial structures and building equipment contained therein.**

The administrator ~~as assigned by the deputy director~~ of the ~~bureau of construction services~~ division of construction and business services or his or her authorized representative may inspect public school buildings, public assembly halls, churches, theaters, grandstands, buildings used for manufacturing or commercial purposes, hotels, motels, apartment houses, hospitals, nursing homes, buildings used for entertainment or amusement, and all other structures that are used, occupied or frequented by large numbers of people for the purpose of determining whether such structures and the building equipment related to such structures are safe and comply with applicable building standards and procedures.

**Sec. 536-502. Inspection of dangerous structures.**

The administrator ~~as assigned by the deputy director~~ of the ~~bureau of construction services~~ division of construction and business services or his or her authorized representative may inspect any structure or building equipment reported or appearing to be defective, dangerous or damaged by fire, casualty or vandalism for the purpose of determining whether such structure or building equipment is safe and complies with applicable building standards and procedures.

**Sec. 536-503. Inspection of premises on which municipally licensed activities are to be carried out.**

The administrator ~~as assigned by the deputy director~~ of the ~~bureau of construction services~~ division of construction and business services or his or her authorized representative may inspect the structure and building equipment on any premises that are being used or may be used in connection with a business operation licensed pursuant to Title IV of this Code. Such inspection shall be made for the purpose of determining whether such structure and building equipment are safe and comply with applicable building standards and procedures. Fees as provided in section 131-501 of the Code shall be paid for the original building and fire inspections and each annual building and fire reinspections by the person, partnership or corporation that made application to the ~~bureau of license and permit services~~ division of construction and business services for licensure of such business operation. The ~~bureau of license and permit services~~ division of construction and business services shall cause any fees collected under this section to be deposited into an account for the use and benefit of the department of ~~code enforcement~~ business and neighborhood services.

**Sec. 536-601. Payment of fees; determination of floor area.**

(a) Fees required for activities regulated by this chapter shall be collected by the administrator ~~as assigned by the deputy director~~ of the ~~bureau of license and permit services~~ division of construction and business services and ~~the deputy director for the division of inspections~~ and are specified in the following sections.

(b) For fees that are calculated on the basis of floor area, floor area shall be determined on the basis of exterior dimensions.

**Sec. 536-609. Administrative fee.**

(a) To compensate the department of ~~code enforcement~~ business and neighborhood services for the administrative expenses incurred by its ~~bureau divisions~~ as listed in this section, a fee provided in section 131-501 of the Code may be assessed at the discretion of the deputy director in charge of the division of ~~administration, logistics, licenses and permits~~ construction and business services (in accordance with a written policy established by the deputy director) against a person, partnership, or corporation relative to construction for which the person, partnership, or corporation has obtained a building permit, and:

- (1) Notice was not given that construction was available for inspection within the time period required by section 536-402 and the construction is no longer available for inspection;
- (2) Notice was given pursuant to section 536-402 that construction was available for inspection, and:
  - a. The construction could not be found because the construction address provided on the permit application was incorrect;
  - b. The construction was not accessible when the inspector attempted to make the requested inspection at the time agreed upon for the inspection (or if no time was agreed upon, between 8:00 a.m. and 5:00 p.m. Monday through Friday on a day that is not a holiday);
  - c. The construction was not yet sufficiently completed for an inspection to be made; or
  - d. The construction was covered or otherwise concealed and therefore not available for inspection;
- (3) A notice of correction was issued to the person, partnership, or corporation and either no response from the person, partnership, or corporation was made within the time specified for reinspection or the person, partnership; or corporation requested reinspection of corrections and the corrections were not properly completed; or
- (4) A certificate required by section 536-301, 536-302, 536-303 or 536-404 was not filed within the time period required by those sections.

(b) To compensate the department of ~~code enforcement~~ business and neighborhood services for the administrative expenses incurred by its ~~bureau divisions~~ as listed in this section, a fee provided in section 131-501 of the Code may be assessed at the discretion of the deputy director in charge of the division of ~~administration, logistics, licenses and permits~~ construction and business services of the department of ~~code enforcement~~ business and neighborhood services (in accordance with a written policy established by the deputy director), as follows:

- (1) Against a person, partnership, or corporation when an inspection reveals that construction has started or is completed that requires a permit and that a permit was not obtained prior to the time of inspection;
- (2) Against a contractor when an inspection reveals that construction has started or is completed that requires notification under section 536-216 and notification was not obtained and posted prior to the time of inspection;
- (3) Against a person, partnership, or corporation relative to construction for which a building permit is not required when an inspection visit to the construction address is needed because the inspector receives information that there exists a substantive violation of the building standards and procedures, resulting in the issuance of a notice of correction;
- (4) If a certificate required by section 536-301, 536-302, 536-303 or 536-404 was not filed with the ~~bureau of license and permit services~~ division of construction and business services, the permit has expired for a period of more than thirty (30) days, and a request for renewal of the permit provided for in section 536-616 was not requested prior to the issuance of the administrative fee; and
- (5) Against a person, partnership, or corporation relative to zoning violations when any subsequent inspection visit to the address is needed because a violation has not been corrected and a notice of violation or citation has been issued.

(c) The ~~deputy director~~ chief financial officer in charge of the division of ~~administration, logistics, licenses and permits~~ administrative and financial operations of the department of ~~code enforcement~~ business and neighborhood services, or his or her designee, may, at his or her discretion, waive all or any part of an administrative fee assessed under this section when such fee was assessed in error or when mitigating circumstances indicate the appropriateness of waiving all or part of the reinspection fee.

**Sec. 536-617. Fee for accelerated inspection option.**

The deputy director of the division of ~~inspections~~ construction and business services may institute an accelerated inspection option for contractors who want to secure, quickly and within a definite time period, an inspection of construction for which they have secured a building permit. The deputy director shall make known the hours during which the accelerated inspection option is available and the time within which an inspection will be made under the option. The fees for the accelerated inspection option shall be provided in section 131-502 of the Code.

The division of ~~inspections~~ construction and business services may not require that contractors use the accelerated inspection to secure needed inspections.

**Sec. 536-621. Green building certification discount.**

To encourage the development of certified green building projects, the board of ~~code enforcement~~ business and neighborhood services is authorized to adopt regulations for the purpose of creating and implementing a policy discounting or offering rebates for permits issued under this chapter for certified green building projects. Such discount or rebate shall not exceed fifty (50) percent of the total cost of each permit issued. Any such policy or program developed by the director shall expire no later than December 31, 2011.

**Sec. 536-701. Failure to file a proper certificate of completion and compliance.**

Any person, partnership or corporation that, being required to do so, fails to file with the division of ~~inspections~~ construction and business services a certificate of completion and compliance in accordance with section 536-301, 536-302, 536-303, or 536-404(b)(3) of this chapter or that files a certificate of completion and compliance that is false in a material respect shall not be eligible to subsequently obtain a building permit until a proper certificate of completion and compliance is filed. This sanction shall in no way limit the operation of penalties provided elsewhere in this chapter.

**Sec. 536-702. Authority to withhold issuance of permits.**

(a) The administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services may withhold the issuance of a building permit when the person, partnership or corporation that is either the applicant for or obtainer of a building permit:

- (1) Owes fees (including checks returned for insufficient funds, permit fees owed pursuant to section 536-209 or administrative fees owed pursuant to section 536-609) to the ~~bureau of license and permit services~~ division of construction and business services pursuant to this chapter;
- (2) Has failed to maintain the bond and insurance requirements of Chapter 875;
- (3) Has failed to notify the ~~bureau~~ division of a change of business address; or
- (4) Has failed to attend a general contractors' orientation as required by section 875-107.

(b) The administrator as assigned by the deputy director of the ~~bureau~~ division may withhold the issuance of a building permit when the partnership or corporation that is either the applicant for or obtainer of a building permit fails to have at least one general partner (who is a person) or employee of a partnership or at least one (1) officer or employee of a corporation who holds a license of the appropriate type issued pursuant to Articles II, III, or IV of Chapter 875.

**Sec. 536-704. Revocation of permits.**

The administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services may revoke a building permit when:



- (1) The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact;
- (2) The application, plans or supporting documents reflect a lack of compliance with building standards and procedures;
- (3) There is a failure to comply with the requirements of section 536-202, 536-205, or 536-209;
- (4) The contractor has failed to maintain the surety bond or insurance required as a condition to his or her licensure or listing;
- (5) The contractor has failed to maintain the insurance required by section 536-205 as a prerequisite for obtaining a building permit for the demolition or removal of a structure in excess of seventy-five (75) feet in height; or
- (6) The structure for which a building permit has been issued is not being used or constructed in conformance with provisions of an applicable zoning ordinance or other ordinance relating to land use.

This sanction shall in no way limit the operation of penalties provided elsewhere in this chapter.

**Sec. 536-705. Stop-work order.**

Whenever the administrator as assigned by the deputy director of the ~~bureau of construction services~~ division of construction and business services or the administrator's authorized representative discovers the existence of any of the circumstances listed below, he or she is empowered to issue an order requiring the suspension of the pertinent construction. The stop-work order shall be in writing and shall state to which construction it is applicable and the reason for its issuance. The stop-work order shall be posted on the property in a conspicuous place and, if conveniently possible, shall be given to the person doing the construction and to the owner of the property or his or her agent. The stop-work order shall state the conditions under which construction may be resumed.

- (1) Construction is proceeding in an unsafe manner, including, by way of example and not of limitation, in violation of any standard set forth in this chapter or any state rule pertaining to safety during construction;
- (2) Construction is occurring in violation of building standards and procedures or in such a manner that if construction is allowed to proceed, there is a reasonable probability that it will be substantially difficult to correct the violation;
- (3) Construction has been accomplished in violation of building standards and procedures and a period of time that is one-half (1/2) the time period in which construction could be completed, but no longer than fifteen (15) calendar days has elapsed since written notice of the violation or noncompliance was either posted on the property in a conspicuous place or given to the person doing the construction, without the violation or noncompliance being corrected;
- (4) Construction for which a building permit is required is proceeding without a building permit being in force; in such an instance, the stop-work order shall indicate that the effect of the order terminates if the required building permit is obtained;
- (5) Construction for which a building permit was issued more than thirty (30) days earlier is proceeding without there being in force applicable permits and approvals required by governmental units (including, but not limited to, department of public safety, department of public works, Health and Hospital Corporation of Marion County, state department of health, state department of natural resources, state highway department) for compliance with standards for air quality, drainage, flood control, fire safety, vehicular access, and waste treatment and disposal on the real estate on which the structure is located; in such an instance, the stop-work order shall indicate that the order is applicable to all construction allowed by the building permit and that the effect of the order terminates if the required permits and approvals are obtained; or
- (6) Construction is occurring for which a certificate of appropriateness from the Indianapolis Historic Preservation Commission is required pursuant to IC 18-4-22-1 et seq., without a certificate of appropriateness being in force; in such an instance, the stop-work order shall indicate that the effect of the order terminates if the required certificate of appropriateness is obtained.

This sanction shall in no way limit the operation of penalties provided elsewhere in this chapter.

**Sec. 536-706. - Order forbidding occupancy.**

(a) The administrator as assigned by the deputy director of the ~~bureau of construction services~~ division of construction and business services or the administrator's authorized representative is empowered to issue an order

forbidding the occupancy of any structure or part of any structure if construction on the structure or applicable part of the structure is not yet completed or has occurred in violation of applicable building standards and procedures.

(b) The order forbidding occupancy shall be in writing specifying whether it is applicable to the entire structure or to only a part of the structure, and shall state the reason for its issuance. The order forbidding occupancy shall be posted on the structure in a conspicuous place and, if conveniently possible, shall be given to the owner of the property or his or her agent and to any person doing work on the premises. The order forbidding occupancy shall state the conditions under which the structure or part of the structure may be occupied.

(c) This sanction shall in no way limit the operation of penalties provided elsewhere in the chapter.

**Sec. 536-801. Minimum standards for structures and building equipment.**

(a) Building rules of the state fire prevention and building safety commission as set out in the following articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this chapter and shall include later amendments to those articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

(1) Article 13—Building Codes:

- a. Fire and Building Safety Standards; and
- b. Indiana Building Code;

(2) Article 14—Indiana Residential Code (formerly known as the Indiana One and Two-family Dwelling Code);

(3) Article 16—Indiana Plumbing Codes;

(4) Article 17—Indiana Electrical Code;

(5) Article 18—Indiana Mechanical Code;

(6) Article 19—Indiana Energy Conservation Code;

(7) Article 20—Indiana Swimming Pool Code Indiana Swimming Pool Code; and

(8) Article 22—Indiana Fire Code.

(b) Copies of adopted building rules, codes and standards are on file in the office of the division of ~~inspections~~ construction and business services.

(c) The appeal of any decision concerning the rules incorporated under subsection (a) of this section shall lie first with the director, department of ~~code enforcement~~ business and neighborhood services, and to the fire prevention and building safety commission as provided by IC 22-13-2-7.

(d) Any variance of a rule adopted herein may be granted only by the fire prevention and building safety commission under IC 22-13-2-11.

**Sec. 536-821. Public property; walkways; dust control.**

Any person, partnership or corporation carrying out construction shall comply with the following requirements:

(1) The use of public property shall meet the requirements of the governmental unit having jurisdiction. Building equipment and materials shall not be placed or stored on public property so as to obstruct free and convenient access to and functioning of any fire hydrant, fire or police call box, utility device, manhole, street, alley or gutter. A protective frame shall be provided for any fire hydrant, fire or police call box or utility device that might be damaged by construction. Bridges or covers shall be provided for sidewalks and manholes that might be damaged by construction.

(2) A walkway shall be constructed and maintained on the sidewalk and alley around the site of construction involving the erection, construction, major alteration or razing of any structure (except signs, grandstands, tents, air-supported structures) that has an initial or ultimate height in excess of fifteen (15) feet and that is

- located (or any part of an excavation more than eight (8) feet in depth relative to such construction is located) within twenty (20) feet of the lot line, sidewalk or street (whichever is closer to such structure or excavation); provided, however, that the administrator as assigned by the deputy director of the ~~bureau of construction services~~ division of construction and business services has the discretion to waive the requirement of placing the walkway on a showing that omission of the walkway will not significantly increase the possibility of injury to persons or damage to property as a result of construction on the site. The walkway may be placed further from the site on a sidewalk or within a street or alley if the governmental unit having jurisdiction gives appropriate authorization. Such walkway shall be equipped with suitable lighting devices and illumination shall be provided in the walkway at all times. Such walkway shall at all times be maintained in a clean and sanitary condition and shall be kept free from rubbish, litter and advertising display and shall be provided with suitable solid inclined approaches. Such walkway shall be not less than four (4) feet in width and shall have a durable wearing surface capable of supporting a live load of two hundred (200) pounds per square foot, be provided with a fence along the construction side, a railing along the street side and a full roof above, so as to afford maximum protection to pedestrians. The protective fence shall be no less than eight (8) feet high above the grade and be constructed from three-quarter-inch boards or plywood laid tightly together and securely fastened to four-inch uprights, set not over four (4) feet apart, with two-inch by six-inch bracing and girts. The posts shall be securely set and braced to prevent buckling and overturning. Openings in the fence shall be protected by doors that are normally kept closed. The protective railings shall be substantially built and when of wood shall be constructed of new material having a nominal size of at least two (2) inches by four (4) inches. Railings shall be at least four (4) feet in height, and when adjacent to the excavation shall be provided with a midrail. The protective roof shall have a clear height of eight (8) feet above the walkway. The roof shall be tightly sheathed. The sheathing shall be two-inch nominal wood planking or equal. Such walkways shall be maintained in place and kept in good condition for the length of time construction continues, after which it shall be removed within thirty (30) days.
- (3) Emission of excessive dust or particulate matter shall not occur in the course of construction. A sufficient supply of water shall be available at the site of construction in case it may be needed to put out a small fire or settle dust.

**Sec. 536-822. Removing structures.**

Any person, partnership or corporation carrying out the demolishing, dismantling, dismembering, razing or removing a structure shall in addition to the requirements of section 536-821 comply with the following requirements:

- (1) The administrator as assigned by the deputy director of the ~~bureau of construction services~~ division of construction and business services or his or her authorized representative may, if reasonably necessary to insure public safety, require the licensed wrecking contractor to submit plans and a complete schedule for demolition. Where such are required, no work shall be accomplished until such plans and schedule are approved by the administrator as assigned by the deputy director of the ~~bureau of construction services~~ division of construction and business services, or his or her authorized representative.
- (2) Blasting and use of explosives shall be accomplished only by a person who has obtained a blasting permit pursuant to the requirements of this Code and by special permission of and under the supervision of the administrator as assigned by the deputy director of the ~~bureau of construction services~~ division of construction and business services, the fire prevention bureau of the appropriate jurisdiction, and the division of air pollution control.
- (3) No open fires or other sources of flame except necessary cutting torches are permitted on the inside of the structure that is being wrecked, or in close proximity to flammable materials located outside of the structure, and every reasonable precaution shall be taken to prevent the possibility of fire.
- (4) Suitable provisions shall be made for the disposal of materials that are accumulated during the wrecking of a structure.
- (5) The buildings, foundations, curbs, sidewalks, concrete or asphalt drives and all appurtenances shall be removed to one (1) foot below the ground line or one (1) foot below subgrade elevation, whichever of the two (2) is lower. Such removal shall also include the removal and disposal of buried or exposed tanks. Concrete slabs, under which a basement, pit, well or cistern exists, shall be broken and removed.
- (6) If a sanitary sewer connection exists, ~~a sewer connection permit required by the Revised Code of the Consolidated City and County, Section 671-22 shall be obtained, and~~ the sewer lateral shall be capped in the manner prescribed by ~~the department of public works~~ CWA Authority.

- (7) All rubbish and debris including any goods, merchandise, commodities, products or materials of any kind that may have been stored within the structure being wrecked or on such property shall be removed or cleaned away, the ground leveled off, and the premises put in a clean and sanitary condition; provided, however, that if such property is properly fenced and the erection of a new structure is to be commenced within ninety (90) days, the ground need not be leveled until all such work on the premises is completed.
- (8) Material used for fill or grading shall be only material that can be properly compacted in order to avoid future settlement of filled-in earth or the structure erected over such fill. No pieces of stone, lumber, boards or other material that due to their size or character would prevent proper compaction or would cause later settlement of the surface shall be used in such fill.
- (9) Where a structure is wrecked and an excavation that at any point is eight (8) or more feet below grade level is left unfilled, the fence portion of the walkway required by section 536-821(2) shall remain at the site; provided, however, that the administrator as assigned by the deputy director of the ~~bureau of construction services~~ division of construction and business services may approve a fence that does not meet the standards of section 536-821(2) so long as it is sufficient to prevent persons, especially children, from falling into the excavation.

**Sec. 536-823. Electrical power for on-site construction.**

(a) No person, partnership or corporation shall accomplish or allow the connection, provision or use of electrical power for on-site construction until after a statement of acceptable condition for temporary on-site electrical power has been attached to the temporary service equipment. Such statement shall be in the following form:

**STATEMENT OF ACCEPTABLE CONDITIONS FOR TEMPORARY ON-SITE ELECTRICAL POWER**

Address of temporary service equipment: \_\_\_\_\_

The undersigned licensee hereby certifies under the penalties for perjury that:

1. I am an electrical contractor licensed in accordance with Chapter 875 of the Revised Code of Indianapolis-Marion County, Indiana; and
2. I have either personally accomplished or personally inspected all the above referenced electrical work accomplished in connection with the installation of the temporary service equipment, or in the alternative, I have caused such electrical work to be inspected by a responsible and competent employee who works under my direction and control, who has fully reported to me the condition of such electrical work; and
3. I am familiar with building standards and procedures applicable to electrical work accomplished in connection with the installation of temporary service equipment; and
4. I know that such electrical work has been done in compliance with all building standards and procedures; and
5. I acknowledge and understand that if such electrical work is done in violation of building standards and procedures, that under the provisions of Chapter 875 my electrical contractor's license may be suspended or revoked.

Date certificate attached to service equipment:

Signature

Electrical contractor license number:

Type or printed name

(b) The provision and use of electrical power for on-site construction shall be subject to reasonable orders made by the administrator as assigned by the deputy director of the ~~bureau of construction services~~ division of construction and business services or his or her authorized representative pertaining to such matters as magnitude, duration and method of furnishing and distributing electrical power.

**Sec. 561-105. "~~Bureau of license and permit services~~ Division of construction and business services" defined.**

As used herein, "~~bureau of license and permit services~~ division of construction and business services" or "~~bureau division~~" means the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services.

**Sec. 561-221. When drainage permits required; enforcement; exceptions.**

(a) Except for activity specified in subsection (b), it shall be unlawful for a person, partnership or corporation to undertake or accomplish any land alteration without having in force a written drainage permit obtained from the ~~bureau of license and permit services~~ division of construction and business services. A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars (\$100.00), and each day that an offense continues shall constitute a separate violation. The controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the department of ~~code enforcement~~ business and neighborhood services.

(b) The permit specified in subsection (a) shall not be required for:

- (1) Excavation of cemetery graves;
- (2) Refuse disposal sites where storm drainage is controlled by other regulations;
- (3) Excavation for wells, excavation and backfills for poles, conduits, and wires of utility companies;
- (4) Exploratory excavations or soil testing, under the direction and control of professional engineers, soil engineers, geologists, civil engineers, architects or land surveyors, that are backfilled;
- (5) Ordinary cultivation of agricultural land including tilling, terracing, construction of minor open ditches and crop irrigation;
- (6) The planting and tilling of gardens, flower beds, shrubs, trees and other common uses and minor landscaping of land appurtenant to residences;
- (7) Fill and grading of a former basement site after the demolition of a structure, to conform to adjacent terrain;
- (8) Fill of small holes caused by erosion, settling of earth or the removal of such materials as dead trees, posts or concrete;
- (9) A fill less than one (1) foot in depth, and placed on natural terrain with a slope flatter than ten (10) percent, not intended to support structures, that does not exceed fifty (50) cubic yards per acre and does not obstruct drainage;
- (10) Maintenance of drainage facilities;
- (11) Installation of septic systems, when a proper permit has been obtained;
- (12) Construction of a driveway, when a proper permit has been obtained;
- (13) Installation of building sewers, when a proper permit has been obtained;
- (14) An enlargement or exterior change that does not exceed twenty-five (25) square feet in floor area to an existing structure, when no part of the structure, or the enlargement or exterior change to the structure, is located in an impacted drainage area;
- (15) Placement of an accessory structure, not exceeding one hundred twenty (120) square feet in floor area, to a one- or two-family dwelling, when the accessory structure is not located on a permanent foundation;
- (16) Exterior changes to a structure that do not change the ground floor area of the structure, unless the roof of the building is part of a retention-detention system; or
- (17) Construction of a deck that extends over open ground at least eight (8) feet above grade or that is constructed so that water freely and directly flows through the deck to the ground below the deck.

(c) The drainage permit must be obtained before any work is initiated with the exception of testing to determine procedures or materials.

**Sec. 561-223. Application; issuance.**

(a) Application for a drainage permit shall be made to the ~~bureau of license and permit services~~ division of construction and business services. The application shall be in writing on a form prescribed by the division.

(b) A drainage permit shall be issued if:

- (1) The person, partnership or corporation is eligible to apply for and obtain a drainage permit under section 561-222;
- (2) The application required by this section and supporting information required by either section 561-224 or section 561-225 have been properly prepared and submitted;

- (3) The drainage plan, together with supplemental information required by either section 561-224 or section 561-225 reflect compliance with drainage requirements;
- (4) A certificate of sufficiency of plan and a certificate of obligation to observe have been filed by a registered professional engineer, land surveyor or architect, engaged in storm drainage design;
- (5) If required by the administrator as assigned by the deputy director of the ~~bureau~~ division, a bond has been posted pursuant to section 561-231;
- (6) If required by the administrator as assigned by the deputy director of the ~~bureau~~ division, a covenant has been executed pursuant to section 561-232;
- (7) If required by the administrator as assigned by the deputy director of the ~~bureau~~ division, an easement has been dedicated pursuant to section 561-233; and
- (8) The applicable fee, computed in accordance with Division 8 of Article II of this chapter, has been paid.

**Sec. 561-224. Professionally prepared and certified drainage plans.**

(a) A drainage plan fulfilling the requirements of this section shall be submitted to the ~~bureau of license and permit services~~ division of construction and business services for approval before a drainage permit can be obtained to accomplish a land alteration, unless the land alteration is such that a drainage permit can be obtained in accordance with section 561-225. The drainage plan must be submitted in duplicate and shall indicate in a precise way the work to be accomplished pursuant to the drainage permit. One (1) copy of the drainage plan will remain on file in the division. The following information must be submitted for approval:

- (1) Construction features. The drainage plan shall demonstrate and describe surface and subsurface drainage and include the following:
  - a. Scale; arrow; contours and USGS bench marks: The drainage plan shall be drawn to scale, preferably one (1) inch per fifty (50) feet, and an arrow indicating north shall appear on each page. Existing land contours shall be shown, with one-foot contours for land with a slope flatter than ten (10) percent, two-foot contours for slopes equal to or greater than ten (10) percent but flatter than twenty (20) percent, and five-foot contours for slopes equal to or greater than twenty (20) percent. A bench mark, which is easily accessible and relocatable, shall be shown. The bench mark may be assumed at the discretion of the administrator as assigned by the deputy director of the ~~bureau~~ division if the area contains less than three (3) acres, but otherwise shall be determined by USGS datum.
  - b. Location and vicinity map: A map that indicates the location and vicinity of the proposed land alteration shall be included in the drainage plan.
  - c. Existing and proposed drainage facilities: The drainage plan shall show the locations of all existing and proposed drainage facilities. Storm drains and manholes and other structures shall be located in the plans by dimensions from traverse lines, property markers or road centerlines. However, the areas where physical features are not available, coordinates of manholes and bearings of storm drains shall be based either on the state's coordinate system or other acceptable horizontal and vertical datum. If applicable, the drainage plan should show the direction of flow, elevation of inverts, gradient, size and capacity of existing and proposed storm drains. When using existing storm drains, the capacity shall be indicated.
  - d. Plan and profile: The plan shall be shown at the upper portion of the drawing. The plan, generally, shall be drawn on a scale of one (1) inch equals fifty (50) feet. The plan shall show appropriate right-of-way and easement limits. The profile shall be shown under the plan and shall extend a sufficient distance downstream of the outlet to allow any pertinent information concerning the outfall channel to be shown. The storm drain and inlet profile shall generally be drawn on a scale of one (1) inch equals fifty (50) feet horizontal, one (1) inch equals five (5) feet vertical. Where a storm drain is located in an existing or proposed pavement or shoulder, the centerline grade of the road shall be shown. Where a storm drain is located outside pavement or shoulder, the existing ground over the storm drain with proposed grading shall be shown. If the storm drain is to be constructed on fill, the profile of the undisturbed earth, at drain location, shall be shown.

(2) Design calculations. Design calculations are required as part of the drainage plan and shall specifically include:

a. Estimation of stormwater runoff:

1. Drainage area map (scale one (1) inch equals two hundred (200) feet) indicating contours at two-foot intervals and limits of one-hundred-year floodplain, where applicable;
2. Weighted runoff coefficient computations; and
3. Time of concentration computation indicating overland flow time and flow time in the swale, gutter, pipe or channel.

b. Close conduit and open channel design computations:

1. Size of pipe or channel cross section;
2. Pipe or channel inverts slope in percent;
3. Roughness coefficient;
4. Flowing velocities in feet per second; and
5. Design capacity in cubic feet per second.

c. Head loss computations in manholes and junction chambers;

d. Hydraulic gradient computations, wherever applicable; and

e. Erosion control methods.

Such design calculations shall conform to the standards of Article III, Division 5 of this chapter and all regulations promulgated thereunder.

(3) Additional information. The administrator as assigned by the deputy director of the bureau division shall be empowered to require such additional information to be included in a drainage plan that is necessary to evaluate and determine the adequacy of the proposed drainage facility.

(4) Certification required. All drainage plans submitted under this section must be certified by a registered professional engineer, land surveyor or architect engaged in storm drainage design under whose supervision the plans were prepared. The certificate shall be in the following form:

CERTIFICATE OF SUFFICIENCY OF PLAN

Permit Number \_\_\_\_\_

Address where land alteration is occurring \_\_\_\_\_

Plan Date \_\_\_\_\_

I hereby certify that to the best of my knowledge and belief:

- (1) The drainage plan for this project is in compliance with drainage requirements (as set forth in Chapter 561 of the Revised Code of the Consolidated City and County) pertaining to this class of work.
- (2) The calculations, designs, reproducible drawings, masters and original ideas reproduced in this drainage plan are under my dominion and control and they were prepared by me and my employees.

Signature

Date

Typed or Printed Name

Phone

(SEAL)

Business Address

Surv. \_\_\_\_\_ Eng. \_\_\_\_\_ Arch. \_\_\_\_\_ Indiana Registration No. \_\_\_\_\_

- (5) *Obligation to observe.* All drainage plans submitted under this section must include a certificate of obligation to observe by a registered professional engineer, land surveyor or architect engaged in storm drainage design. The certificate shall be in the following form:

CERTIFICATE OF OBLIGATION TO OBSERVE

Permit Number \_\_\_\_\_

Address where land alteration is occurring \_\_\_\_\_

Plan Date \_\_\_\_\_

I will perform periodic observations of this project during construction to determine that such land alteration is in accordance with both the applicable drainage requirements and the drainage plan for this project submitted for a drainage permit to the division of compliance of the department of metropolitan development.

Signature

Date

Typed or Printed Name

Phone

(SEAL)

Business Address

Surv. \_\_\_\_\_ Eng. \_\_\_\_\_ Arch. \_\_\_\_\_ Indiana Registration No. \_\_\_\_\_

(b) The approval of a drainage plan by the ~~bureau division~~ under this section shall be valid for a period of one (1) year from the date such approval was granted, or until the drainage permit for which the plan was submitted is issued, whichever occurs first. However, prior to the issuance of the permit, if there are any material changes to an approved drainage plan or circumstances that cause the drainage plan to be inaccurate or incomplete, then a new or corrected drainage plan shall be submitted to the division as a precondition for obtaining a drainage permit.

**Sec. 561-225. When professionally prepared and certified drainage plan not required.**

(a) A drainage plan that does not contain as much information as drainage plans prepared to fulfill the requirements of section 561-224 and that is not prepared or certified by a registered professional engineer, land surveyor or architect engaged in storm drainage design may be submitted when:

- (1) No part of the parcel or property for which the drainage permit is required is in an impacted drainage area; and
- (2) The primary basis on which a drainage permit is required is the construction, enlargement or location, on a permanent foundation, of a one-family dwelling, two-family dwelling or accessory structure appurtenant to either a one- or two-family dwelling.

(b) The drainage plan must be submitted in duplicate and shall indicate the nature and location of all work to be accomplished pursuant to a drainage permit. The drainage plan must be neat, accurate and readable. One (1) copy of the drainage plan will remain on file in the ~~bureau of license and permit services~~ division of construction and business services. The following information must be submitted for approval under this section:

- (1) The legal description and the street address for the property;
- (2) The dimensions and borders of the parcel;
- (3) The name and address of the owner;
- (4) An arrow indicating north;
- (5) Location of all existing and proposed improvements, structures and paved areas on the site;
- (6) Existing and proposed grading showing positive drainage by contouring or sufficient spot elevations; and
- (7) Location of all existing or proposed swales, ditches, culverts, drainage channels, surface and subsurface drainage devices and the direction of the flow.



The drainage plan shall include information necessary to demonstrate conformity with all drainage requirements of Article III of this chapter. The plot map shall illustrate the surface drainage pattern of the site away from structures and the final distribution of surface water off-site, either preventing or planning for surface ponding.

(c) The approval of a drainage plan by the ~~bureau~~ division under this section shall be valid for a period of one (1) year from the date such approval was granted, or until the drainage permit for which the plan was submitted is issued, whichever occurs first. However, prior to the issuance of the permit, if there are any material changes to an approved drainage plan or circumstances that cause the drainage plan to be inaccurate or incomplete, then a new or corrected drainage plan shall be submitted to the division as a precondition for obtaining a drainage permit.

(d) Notwithstanding other provisions of this section, submission of a drainage plan shall not be required as a precondition for obtaining a drainage permit in the instance of a one- or two-family dwelling constructed in a subdivision for which a plat has been approved in accordance with Chapter ~~731, Article III~~ 741, Article I of this Code, and for which a drainage plan meeting the requirements of section 561-224 has been approved and a permit issued under this chapter, so long as the permit applicant certifies that the land alteration shall be accomplished in compliance with the specifications and information found on the approved plat and on such drainage plan. Any deviations from the drainage provisions as approved in the plat and drainage plan for the subject plot must be submitted to the ~~bureau~~ division for approval by the administrator of the division, and the administrator may require the submission of plans or other information relative to the deviation that may be required as a precondition to approval.

**Sec. 561-226. Expiration of permit by operation of law; extensions.**

(a) If the land alteration for which the permit has been issued has not commenced within one hundred eighty (180) days from the date of its issuance, the permit shall expire by operation of law and no longer be of any force or effect; provided, however, the administrator ~~as assigned by the deputy director of the bureau of license and permit services~~ division of construction and business services may, for good cause, shown in writing, extend the validity of the permit for an additional period that is reasonable under the circumstances to allow commencement of the land alteration. In no event shall the extension exceed a period of sixty (60) days.

(b) If the land alteration has been commenced but only partially completed, and thereafter no substantial land alteration has occurred on the site for a period of six (6) months, the permit shall expire by operation of law and no longer be of any force or effect; provided, however, the administrator ~~as assigned by the deputy director of the bureau~~ division may, for good cause shown in writing, extend the validity of such permit for an additional period that is reasonable under the circumstances to allow resumption of the land alteration.

(c) An extension under this section may be granted upon the payment of the applicable fee as computed in accordance with Division 8 of Article II of this chapter, and shall be confirmed in writing.

**Sec. 561-227. Notice of change in permit information; amendment of permits and plans.**

(a) After a permit has been issued, the permittee shall give prompt written notice to the administrator ~~as assigned by the deputy director of the bureau of license and permit services~~ division of construction and business services of any addition to or change in the information contained in the permit application.

(b) After a permit has been issued, any material deviation or change in the information contained in the permit application or in the approved plans shall be considered an amendment subject to approval by the administrator ~~as assigned by the deputy director of the bureau~~ division. Prior to the time land alteration involving the change occurs, the permittee shall file with the administrator a written request for amendment, including a detailed statement of the requested change and the submission of any amended plans.

(c) The administrator ~~as assigned by the deputy director~~ of the bureau ~~division~~ shall give the permittee written notice that the request for amendment has been approved or denied, and if approved, copies of the amended application or plans shall be attached to the original application or plans.

(d) The administrator ~~as assigned by the deputy director~~ of the bureau ~~division~~ may approve an amendment to a permit or approved plans under this section upon the payment of the applicable fee as computed in accordance with Division 8 of Article II of this chapter. Reinspection fees or other fees that are occasioned by the amendment shall be assessed and paid in the same manner as for original permits or plans.

**Sec. 561-228. Determination of impacted drainage areas.**

(a) The board of public works is authorized, but is not required, to classify certain geographical areas as impacted drainage areas and to enact and promulgate regulations for land alteration in impacted drainage areas, in addition to regulations that are applicable generally. Such classifications and regulations may be later modified or rescinded by the board of public works.

(b) Action of the board of public works to classify or declassify any area as an impacted drainage area, or to promulgate, repeal or modify any regulation in regard thereto, shall be in compliance with the requirements of Article III, Division 2 of this chapter, regarding promulgation, repeal and modification of regulations generally.

(c) In determining impacted drainage areas, the board of public works shall consider such factors as topography, soil type and distance from adequate drainage facilities. The following areas shall be designated as impacted drainage areas, unless good reason for not including them is presented to the board of public works:

- (1) A floodway or floodplain designated by the metropolitan development commission in the zoning ordinance of Marion County, Indiana;
- (2) Land within seventy-five (75) feet of each bank of any legal drain;
- (3) Land within fifty (50) feet of each bank of a natural drainageway, including a river, stream, gully, ditch or other definite natural watercourse; and
- (4) Land where there is not an adequate outlet, taking into consideration the capacity of depth of the outlet.

(d) A map identifying impacted drainage areas shall be retained in the office of the ~~bureau of license and permit services~~ division of construction and business services and shall be made conveniently available to members of the public during regular business hours.

**Sec. 561-229. Transfer of permit.**

(a) A drainage permit may be transferred with the approval of the administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services to a person, partnership or corporation that would be eligible under section 561-222 to obtain such drainage permit in the first instance (hereinafter called "transferee"), after both the payment of a fee as computed in accordance with Division 8 of this article and the execution and filing of a form furnished by the ~~bureau division~~. Such transfer form shall contain, in substance, the following certifications, release and agreement:

- (1) The person who obtained the original drainage permit or a person who is employed by and authorized to act for the obtainer (hereinafter called "transferor") shall:
  - a. Certify under penalties for perjury that such person is familiar with land alteration activity accomplished pursuant to the drainage permit; such person is familiar with the drainage requirements applicable to the land alteration activity; and to the best of such person's knowledge, information and belief the land alteration activity, to the extent performed, is in conformity with all drainage requirements; and
  - b. Sign a statement releasing all rights and privileges secured under the drainage permit to the transferee.
- (2) The transferee shall:
  - a. Certify that the transferee is familiar with the information contained in the original drainage permit application, the drainage plan, and any other documents filed in support of the application for the original drainage permit;
  - b. Certify that the transferee is familiar with the present condition of the premises on which land alteration activity is to be accomplished pursuant to the drainage permit; and
  - c. Agree to adopt and be bound by the information contained in the original application for the drainage permit, the drainage plan, and other documents supporting the original drainage permit application; or in the alternative, agree to be bound by such application, plan and documents as modified by an amendment submitted to the administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services for approval.

(b) The transferee shall assume the responsibilities and obligations of and shall comply with the same procedures required of the transferor (including, but not being limited to, the requirement of section 561-241 that a certificate of completion and compliance be executed and filed) and shall be subject to any written orders issued by the administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services.

(c) A permit for land alteration activity at a specified location may not be transferred to land alteration activity at another location.

### DIVISION 3. BONDS, COVENANTS AND EASEMENTS

(a) The administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services may, as a prerequisite to the issuance of a drainage permit, require the posting of a performance bond from a company licensed by the State of Indiana to provide such surety, upon which the principal may be the owner of the affected land, the developer, or any other party or parties the administrator believes necessary or helpful. Such bond shall name the City of Indianapolis and County of Marion as parties who can enforce the obligations thereunder, and shall be in an amount established by the administrator as adequate to provide surety for the satisfactory completion of the improvements required by the drainage permit. In the instance of platting, such bond may be a part of the total bonding required by the plats committee of the metropolitan development commission.

(b) In instances where the administrator as assigned by the deputy director of the ~~bureau~~ division has required a performance bond pursuant to this section, the administrator may, as an alternative to the posting of such bond, accept other appropriate security, such as a properly conditioned irrevocable letter of credit, that meets the same objectives as the performance bond described in this section, subject to approval of any other department or agency whose interests are protected by the same bonding requirement.

#### **Sec. 561-232. Execution of covenant.**

Where the administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services shall determine that such is necessary in order to achieve satisfactory present and future drainage of the parcel of land for which a drainage permit is sought and the area surrounding that parcel, the administrator may, as a prerequisite to the issuance of a drainage permit, require the execution of covenants and/or easements running in form to the City of Indianapolis and County of Marion by the owner or owners of such parcel. As a minimum in such cases, the administrator shall require that the following covenant be executed by the owner or owners of such land that will be included in a recorded plat:

"It shall be the responsibility of the owner of any lot or parcel of land within the area of this plat to comply at all times with the provisions of the drainage plan as approved for this plat by the ~~bureau of license and permit services~~ division of construction and business services of the City of Indianapolis and the requirements of all drainage permits for this plat issued by said division."

#### **Sec. 561-233. Dedication of easement.**

The administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services may, as a prerequisite to issuance of a drainage permit, require the dedication of easements to the City of Indianapolis and to owners of other affected lands by the owner of the parcel of land, relative to which application for a drainage permit has been made, where such is necessary to achieve satisfactory present and future drainage of the parcel and the area surrounding the parcel.

#### **Sec. 561-241. Certificate of completion and compliance.**

Within fourteen (14) days after completion of a land alteration for which a drainage permit was required and relative to which a certified plan was required to be filed pursuant to section 561-224, a registered professional engineer, land surveyor or architect, engaged in storm drainage design, shall execute and file with the ~~bureau of license and permit services~~ division of construction and business services a certificate of completion and compliance. Such certificate shall be in the following form:

#### CERTIFICATE OF COMPLETION AND COMPLIANCE

Address of premises on which land alteration was accomplished \_\_\_\_\_

Inspection Date(s): \_\_\_\_\_

Permit No. \_\_\_\_\_

Relative to plans prepared by: \_\_\_\_\_ on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, 19\_\_\_\_\_.

I hereby certify that:

- (1) I am familiar with drainage requirements applicable to such land alteration (as set forth in Chapter 561 of this Code); and
- (2) I have personally observed the land alteration accomplished pursuant to the above-referenced drainage permit; and
- (3) To the best of my knowledge, information and belief, such land alteration has been performed and completed in conformity with all such drainage requirements, except \_\_\_\_\_

Signature  
Date  
Typed or Printed Name  
Phone

(SEAL)

Business Address

Surv. \_\_\_\_\_ Eng. \_\_\_\_\_ Arch. \_\_\_\_\_ Indiana Registration No. \_\_\_\_\_

**Sec. 561-251. General authority for investigations and inspections.**

(a) The power to make investigations and inspections of land alterations shall be vested in the administrator as assigned by the deputy director of the division of ~~inspections~~ construction and business services of the department of ~~code enforcement~~ neighborhood services and his or her authorized representatives.

(b) Investigation and inspection of land alteration may be made at any time by going upon, around or about the premises on which the land alteration has occurred.

(c) Such investigation and inspection may be made either before, during or after the land alteration is completed, and it may be made for the purposes, among others, of determining whether the land alteration meets drainage requirements and ascertaining whether the land alteration has been accomplished in a manner consistent with plans and specifications or a certificate filed pursuant to section 561-241.

(d) Efforts to afford an opportunity for investigation and inspection of the land alteration shall be made by persons working on or having control of the land alteration, including making available a copy of plans and specifications submitted to obtain a drainage permit.

**Sec. 561-262. Revocation of permits.**

(a) The administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services may revoke a drainage permit where the application, plans or other supporting documents required by section 561-223 reflect either:

- (1) A false statement or misrepresentation as to material fact;
- (2) Lack of compliance with drainage requirements;
- (3) Failure to comply with the requirements of sections 561-221, 561-222, 561-223, 561-224, 561-225 or 561-227 of the Code; or
- (4) Failure to post bond, execute covenants or dedicate easements as required by the administrator of the ~~bureau~~ division pursuant to sections 561-231, 561-232 or 561-233 of the Code.

(b) This sanction shall in no way limit the operation of penalties provided elsewhere in this division.

**Sec. 561-263. Stop-work order.**

(a) Whenever the administrator as assigned by the deputy director of the division of ~~inspections~~ construction and business services of the department of ~~code enforcement~~ business and neighborhood services or his or her authorized representative discovers the existence of any of the circumstances listed below, he or she is empowered to issue an order requiring the suspension of the land alteration. The stop-work order shall be in writing and shall state to what land alteration it is applicable and the reason for its issuance. One (1) copy of the stop-work order shall be

posted on the property in a conspicuous place and one (1) copy shall be delivered to the permit applicant, and if conveniently possible to the person doing the land alteration and to the owner of the property or his or her agent. The stop-work order shall state the conditions under which land alteration may be resumed. A stop-work order shall be issued if:

- (1) Land alteration is proceeding in an unsafe manner;
  - (2) Land alteration is occurring in violation of a drainage requirement and in such manner that if land alteration is allowed to proceed, there is a probability that it will be substantially difficult to correct the violation;
  - (3) Land alteration has been accomplished in violation of a drainage requirement and a period of time that is one-half (½) the time period in which land alteration could be completed, but no longer than fifteen (15) calendar days has elapsed since written notice of the violation or noncompliance was either posted on the property in a conspicuous place or given to the person doing the land alteration, without the violation or noncompliance being corrected; or
  - (4) Land alteration for which a drainage permit is required is proceeding without a drainage permit being in force. In such an instance, the stop-work order shall indicate that the effect of the order terminates when the required drainage permit is obtained.
- (b) This sanction shall in no way limit the operation of penalties provided elsewhere in this division.

**Sec. 561-266. Enforcement of covenants.**

(a) Any person who violates a covenant required under section 561-232, and/or the owner of any parcel of land who permits such a violation upon land owned by him or her, may be notified in writing by the administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services, that a violation exists, and shall be given a reasonable period of time in which to correct such violation. The notice shall specify the nature of the violation with reasonable clarity.

(b) If the person responsible for a violation of a covenant required under section 561-232, or the owner of the land upon which such violation exists, fails to correct the violation in a reasonable time in accordance with the requirements of the notice described above, the City of Indianapolis shall have the authority, through the ~~bureau~~ division, to correct the violation at its expense and to place a lien on the land whereupon the violation was so corrected for the recovery of any and all expenses caused to the city for effecting such correction.

**Sec. 561-271. Variance procedure.**

(a) The administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services, after consultation with the engineering division of the department of public works, shall have the power to modify or waive any minimum drainage standard found in Article III of this chapter or any regulations promulgated by the board of public works pursuant to Article III of this chapter. The administrator may, but is not required to, grant such a modification or waiver if an applicant for a drainage permit makes a substantial showing:

- (1) That a minimum drainage standard regulation is infeasible or unreasonably burdensome; and
- (2) That an alternate plan submitted by the applicant will achieve the same objective and purpose as compliance with minimum drainage standards and regulations.

(b) The request for a variance together with supporting information shall be made in writing to the administrator who shall make a decision within twenty (20) days and file a copy of his or her decision with the board of public works.

**Sec. 561-272. Appeals.**

An applicant may appeal to the board of public works the decision of the administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services denying or partially approving a requested variance. The appeal of the administrator's decision shall be filed with the board within twenty (20) days of the decision. An applicant may cause the variance request to be scheduled before the board of public works in the instance where the administrator has failed to make a decision for a period of twenty (20) days after

the written request for a variance. The board shall hear the request for the variance de novo at a regular meeting and in making a decision shall apply the standards set forth in section 561-271.

**Sec. 561-281. Amount.**

The board of ~~code enforcement~~ business and neighborhood services shall have the power to establish the amount of fees by regulation.

**Sec. 561-283. Payment of fees; refunds.**

(a) Fees for drainage permits shall be collected by the ~~bureau of license and permit services~~ division of construction and business services, acting on behalf of the controller.

(b) A permit fee paid under this chapter shall not be refunded except upon request and in instances where the permit was issued in error, either because it was not required by law, or because a permit for the same activity previously had been issued and was in force at the time the second permit was applied for and issued.

**Sec. 561-352. Alternative standards, regulations and procedures available.**

As an alternative to complying with those standards and regulations referred to in section 561-351, the land alteration may be accomplished in accordance with the standards set forth in Division 3 of Article III and regulations adopted by the board of public works pertinent to such standards. If a land alteration is carried out in accordance with standards found in Article III and regulations pertinent to such standards, then the requirements of section 561-224 shall be followed in submitting a drainage plan to the ~~bureau of license and permit services~~ division of construction and business services for its review.

**Sec. 986-101. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

*Block party* means a distinct event held by and for the residents of a specific neighborhood or group of neighborhoods for a period of one (1) day or less.

*Civic sponsored special event* means any special event designated in section 986-104 of this Code.

*Clean zone* means a geographically defined area within a special event zone during a civic sponsored special event that no temporary advertising, signage, or structures shall be erected or transient merchant, vendor, or otherwise licensed activity may take place without the person or entity performing such activity first having received approval from the event sponsor and a limited duration license from the ~~bureau of license and permit services~~ division of construction and business services.

*Event sponsor* means the person, party, or entity that organizes a special event and has applied for a special event license under this chapter, or the person, party or entity designated as such on a special event license application.

*Fiscal impact* means an increase or decrease in program expenditures, revenues (non-tax), positions, or FTE compared to the amounts in the current approved budget. Programs include those administered by the city and county, and special districts. Fiscal impact statements are to be produced by the office of finance and management on a biannual basis, with the first being due on or before May 1 of the year following the date this ordinance [August 15, 2011] is deemed to be in full force and effect.

*Fiscal impact statement* means an independent, objective analysis of the expenditure, revenue, staffing, and organizational effects of this chapter and departments most impacted hereby, including but not limited to public safety, ~~code enforcement~~ business and neighborhood services and public work has on the last approved budget for any fiscal year and upon the delivery of ongoing and unrelated services of the city and county.

*Limited duration license* means a license issued by the ~~bureau of license and permit services~~ division of construction and business services for a limited time frame within a defined area and for certain activities as authorized by this chapter.

*Mobile advertising sign* means any sign or advertisement that is attached to a portable device or person, that allows the advertisement to move around or park, including but not limited to signs mounted on bicycles, cars,

motorcycles, trucks, flatbeds, or any other device with wheels that allows movement through an area, but does not include any currently licensed entity (such as a licensed public vehicle for hire) or other public transit services.

*Mobile wireless communication facility* means a structure, antenna, or trailer temporary and portable in nature that is used to provide or increase wireless cellular communication.

*Pedestrian information sign* means a sign that is erected solely for the purposes of providing directional, traffic, or event information. Such signs may reference the special event itself, but shall not include advertising.

*Residential parking areas* means areas that have been identified as dwelling districts in Chapter ~~734~~ 742 of the Code.

*Special event* means a temporary event or gathering, including a parade, using either private or public property, that draws an estimated number of participants and spectators exceeding two hundred fifty (250) people present on any day of the event and that involves one or more of the following activities, except when the activities are for the purpose of construction or moving a structure:

- (1) Closing of a public street;
- (2) Blocking or restricting streets, sidewalks, alleys, or other public places, in whole or in part;
- (3) Sale or distribution of food or beverages on streets, sidewalks, alleys, or other public places or public property, or on private property where otherwise prohibited by ordinance;
- (4) Erection or placement of a tent, utility pole, or other temporary structure on a street, sidewalk, alley, or other public place;
- (5) Erection or placement of a stage, bandshell, trailer, van, portable building, grandstand, bleachers, or other apparatus used for entertainment purposes on public property, or on private property where otherwise prohibited by ordinance;
- (6) Erection or placement of temporary signage, banners, or displays of any kind in or over a public right of way, or on private property where otherwise prohibited by ordinance; or
- (7) Activity that requires for its successful execution the provision and coordination of municipal services to a degree significantly over and above that which the city routinely provides under ordinary circumstances.

This term shall not include any event or function held on private property entirely within the existing structure or appurtenants thereto of an establishment that has been operating continuously for thirty (30) days or more prior to the start of a special event.

*Special event zone* means a geographically defined area during a special event in which no temporary advertising, signage, or structures may be erected or transient merchant, vendor, or otherwise licensed activity may take place without the person first having received a limited duration license from the ~~bureau of license and permit services~~ division of construction and business services.

**Sec. 986-102. Special event license required; geographic area defined.**

(a) It shall be unlawful for a special event to be held without a special event license having been obtained from the ~~bureau of license and permit services~~ division of construction and business services.

(b) The license administrator shall identify the date and outline the geographic boundaries of each special event. Dates and geographic boundaries of the special event and any separate special event zones shall be identified by the license administrator according to provisions of Section 986-107 and Section 986-110 of the Code.

(c) The license administrator may, at the request of the event sponsor, identify and outline separate clean zones within the special event zone to accommodate the specific requirements of that civic sponsored special event.

**Sec. 986-111. Discretionary authority granted to license administrator.**

(a) Notwithstanding any other provision of this Code, the license administrator as assigned by the deputy director of the division of construction and business services may, upon cooperation with the department of public safety and the department of public works, suspend the use of loading zones authorized under Chapter 621 during a licensed special event. The license administrator shall notify any identified users of the suspension in writing.

(b) Notwithstanding any other provision of this Code, the license administrator may, upon cooperation with the department of public safety and the department of public works, authorize the bagging, blocking, or other use

of parking meters in the city during a licensed special event. All applicable fees for the bagging, blocking, or use of parking meters shall be paid in the amount provided in Section 131-501 of the Code and deposited into the parking meter fund. The applicant or other entity responsible for the special event shall pay all parking charges set forth in Section 621-225 of this Code associated with the use of parking meters, unless such charges are waived by the parking meter concession agreement, as defined in Section 621-100 of this Code, or are waived in accordance with the procedure and policy set forth in the operations plan required by the parking meter concession agreement.

(c) Notwithstanding any other provision of this Code, the license administrator may, upon cooperation with the department of public safety and the department of public works, authorize the temporary suspension, closing, or creation of any taxicab stands within the designated special event zone or clean zone during a licensed special event. Any temporarily suspended stands will be automatically reinstated and temporarily created stands will cease to exist after the duration of the licensed special event.

(d) Notwithstanding any other provision of this Code, the license administrator may, upon cooperation with the department of public safety and the department of public works, authorize the temporary creation or use of traffic lanes expressly reserved for the use of municipal vehicles and vehicles licensed under this chapter within the designated special event zone or clean zone during a civic sponsored special event. Any temporary created or used lanes will automatically revert to their normal operation upon the expiration of the licensed special event.

(e) Notwithstanding any other provision of this Code, the license administrator may authorize the temporary removal or relocation of individual newsracks placed in the public right-of-way according to Chapter 645 of the Code during a civic sponsored special event. Any individual modular newsracks temporarily removed or relocated will be reinstated after the designated duration of the licensed special event. The owner of any individual modular newsracks requiring temporary removal or relocation shall be moved by the owner of such newsrack.

(f) Notwithstanding any other provision of this Code, the license administrator may authorize the placing of temporary signage upon litter receptacles during a civic sponsored special event.

(g) Notwithstanding any other provision of this Code, the license administrator may authorize the creation and use of temporary residential parking areas within a special event zone or clean zone during a civic sponsored special event for the purposes of providing adequate residential parking for neighborhoods or for public safety purposes within the special event zone. Any temporary residential parking areas will cease to exist after the duration of the special event.

(h) Nothing in this section shall limit the department of public safety's ability to alter or restrict traffic patterns, street closures, or the bagging of parking meters in an emergency or other situation affecting public safety. Any such changes made by the department of public safety shall be immediately communicated to the department of ~~code enforcement~~ business and neighborhood services.

#### **Sec. 986-112. Regulations/fiscal impact.**

(a) All regulations necessary or authorized under this chapter shall be promulgated by the board of ~~code enforcement~~ business and neighborhood services according to the provisions of Chapter 141 of this Code.

(b) The office of finance and management shall cause to be filed with the clerk of the council and the office of the mayor a fiscal impact statement for each "civic sponsored special event", as is designated herein at section 986-104, that provides the following information:

- (1) A general statement of the effects the respective civic sponsored special event will have on the operating and capital budgets for the current and next four (4) fiscal years;
- (2) A quantitative estimate of the expenditures and costs associated with civic sponsorship of the designated special event, which estimate shall include additional, expected costs for public safety officers employed during the event, use of publically owned vehicles and equipment, ~~code enforcement~~ business and neighborhood services personnel deployed to or in aid of such sponsorship, planning, equipment costs together with expense of operation, including fuel and other costs attributable to the event;
- (3) An identification of the revenues and funds currently available, or likely to be available from existing budgeted revenue sources or special funds from any source pledged to offset the costs of the city-county sponsorship of the designated civic event for the fiscal year in which the event is to take place;



- (4) A statement on the extent to which current appropriations are available to finance implementation of the measure, if it is to be implemented within the current fiscal year; and
- (5) An identification of the specific funding source to be recommended in the forthcoming fiscal years to continue the city-county sponsorship of designated events, if the cost to the city-county for its sponsorship is estimated to exceed one hundred thousand dollars (\$100,000.00) in any fiscal year.

**Sec. 986-201. License required.**

(a) Notwithstanding any other provision of this Code, the following activity shall be permitted within the special event zone boundaries during a civic sponsored special event, provided that a limited duration license is first issued by the ~~bureau of license and permit services~~ division of construction and business services:

- (1) The outdoor sale or distribution of any marketing or promotional items, merchandise, food, frozen food, flowers, or souvenirs from a fixed or mobile location on public or private property, except any of the described merchandise sold or distributed in the ordinary course of business by a retail establishment in continuous operation for more than thirty (30) days prior to the start of a licensed special event;
- (2) The distribution, giving away, or providing for free any type of product, service, or coupon on public or private property (otherwise referred to as "sampling");
- (3) The erection of temporary signage or other displays, including but not limited to inflatables, cold air balloons, banners, pennants, flags, building wraps, A-frame signs, T-frame signs, projected image signs, electronic variable message signs, and light emitting diode signs. Mobile advertising signs shall not be permitted under this provision;
- (4) The construction, placement, occupation, or use of any temporary structure (including but not limited to temporary retail locations, tents, canopies, and air-supported, air-inflated, and tensioned membrane structures) on any public or private area;
- (5) The occupation or use of any structure that had previously been vacant for a period of not less than thirty (30) days prior to the scheduled start of the licensed special event;
- (6) Any activity not otherwise listed for which a license under Title IV of this Code would otherwise be issued, except for transient merchant activity under Chapter 987 of the Code that is only occurring during the special event and within the special event zone;
- (7) The use of any temporary transportation route or taxi stand within the designated special event zone boundaries by a vehicle transporting passengers for a fare or predetermined rate;
- (8) The erection or placement of a mobile wireless communication facility.

(b) For a special event licensed under this chapter that is not a civic sponsored special event, the following activity shall be permitted within the special event boundaries, provided that a limited duration license is first issued by the ~~bureau of license and permit services~~ division of construction and business services:

- (1) The outdoor sale or distribution of food of any type from a fixed or mobile location on public or private property, except any food sold or distributed in the ordinary course of business by a retail establishment in continuous operation for more than thirty (30) days prior to the start of a licensed special event;
- (2) The use of any temporary transportation route or taxi stand within the designated special event zone boundaries by a vehicle transporting passengers for a fare or predetermined rate; and
- (3) The erection of a temporary banner sign for the purposes of advertising the licensed special event in an area near or adjacent to the identified special event zone.

**Sec. 986-203. Licensure within the special event zone and the clean zone.**

(a) Any license applicant seeking a license to operate under section 986-201 of the Code within a special event zone only may be issued a limited duration license by the ~~bureau of license and permit services~~ division of construction and business services. Such determination will be made by the license administrator in consultation

with the event sponsor. The license administrator shall have the ability to exclude license categories or types upon request of the event sponsor.

(b) In addition to the requirements of subsection (a) above, any license applicant seeking a license to operate within a designated clean zone may be issued a limited duration license by the ~~bureau of license and permit services~~ division of construction and business services and shall be subject to approval by the event sponsor.

(c) All limited duration licenses issued pursuant to this Chapter shall not eliminate the requirement for the license applicant to obtain any necessary permit required under Chapters 536, 645, or ~~730~~ 740 of the Code.

(d) Notwithstanding any other provision of the Code, limited duration licenses for any temporary activity identified in this chapter, as well as any outdoor commercial amusements and recreation, outdoor retail sales, and outdoor cafes shall be permitted in the central business district, commercially zoned areas, and industrially zoned areas without requiring regional center approval from the department of metropolitan development.

**Sec. 986-205. Operating requirements for specific license types.**

(a) [Limited duration licenses.] Limited duration licenses may only be issued pursuant to the restrictions provided in this section.

(b) Temporary signs.

- (1) All temporary signs shall refer to the event underlying the licensed civic sponsored special event or be affixed with an official emblem of said event.
- (2) Temporary sign area shall not exceed the actual façade of the structure to which the temporary sign is affixed.
- (3) Temporary signs will not be permitted on buildings that are abandoned, vacant, or declared unsafe by either Chapter 537 of the Code or IC 36-7-9.
- (4) Temporary signs will not be permitted on buildings or structures whose property taxes show a balance past due at the time of application.
- (5) License applicants must deposit funds or provide a bond of an amount to be determined by the license administrator that is sufficient to cover the cost of removal of the licensed temporary sign in the event that such sign is not removed within seven (7) calendar days after the completion of the designated civic sponsored special event. Deposited funds will be returned to licensees whose signs are removed within such seven-day period. Any temporary sign still in place after the expiration period will be considered an illegal sign, subject to citation and removal by the city, with the licensee or property owner to be responsible for the costs of such removal.
- (6) Temporary signs that are attached or suspended from a building, and that are constructed of cloth or other combustible material, shall be constructed in an approved manner and securely supported.
- (7) Signs that are to be attached to a structure within an existing historic district under the jurisdiction of the Indianapolis Historic Preservation Commission must first obtain approval from the commission regarding the manner and method by which such signs are attached to the building.
- (8) Projection type or light emitting diode signs must be directed away from and not negatively affect or disrupt neighboring hotels or residential buildings.
- (9) Temporary signs shall be permitted on any permanent fixtures within the right-of-way, such as litter receptacles, utility poles and cabinets, benches and structures located at bus stops, and modular newsracks. Signs that are attached to the right-of-way must be erected or placed in a manner approved by the department of public works. Signs that are placed or laid on any sidewalk, street, or alley must be constructed of an approved material designed to prevent unstable footing in the event of precipitation. Signs placed or laid on any sidewalk, street, or alley must not be of a size larger than four (4) feet by four (4) feet.
- (10) A-frame or T-frame signs shall meet the following provisions:
  - a. Only one such sign shall be permitted for each building entrance;
  - b. Such sign erected in front of a building shall be within twenty (20) feet of the building entrance;

- c. Such signs shall be no larger than eight (8) square feet and shall not exceed four (4) feet in height, including the base of the sign;
  - d. Such signs shall remain five (5) feet or more from the curb of a public street and shall leave five (5) or more feet of effective walkway width unobstructed; and
  - e. Such signs shall be removed whenever the adjacent business is closed.
- (11) Pedestrian information signs may be located on a sidewalk, street, alley, or other public place so long as eight (8) or more feet of effective walkway width remains available to passersby.
- (c) Temporary structures.
- (1) All erected structures shall be subject to the provisions of Chapter 536 of the Code.
- (2) All tents erected pursuant to this chapter shall meet the following requirements:
- a. Tents shall be frame, self-supporting style tents that shall comply with the applicable portions of building and fire codes adopted by the State of Indiana; and
  - b. Exterior signs may be permitted on tents within a special event zone or a clean zone, subject to the approval of the event sponsor and the issuance of a separate limited duration license by the ~~bureau of license and permit services~~ division of construction and business services.
- (3) Any temporary structure or tent that is to be attached to a structure within a historic district under the jurisdiction of the Indianapolis Historic Preservation Commission must first obtain approval from the Commission regarding the manner and method by which temporary structure or tent is attached to the building.
- (d) Vacant structures.
- (1) All vacant structures used as temporary sites for entertainment programming, the sale and service of food and beverages, and the sale of merchandise must comply with Chapter 536 of the Code, applicable portions of building and fire codes adopted by the State of Indiana, and applicable health codes.
- (2) All vacant structures used for the purposes described above must be inspected by the department of ~~code enforcement~~ business and neighborhood services division of ~~inspections~~ construction and business services and the department of public safety prior to occupancy, if required by the applicable building and/or fire codes.
- (3) No physical alteration, repair or removal of building elements on the exterior of a vacant structure within a historic district under the jurisdiction of the Indianapolis Historic Preservation Commission may be undertaken without first being granted approval by the commission. This includes, but is not limited to, painting, reglazing, replacing windows or doors, masonry or wood repairs, and removing or replacing light fixtures.
- (e) Temporary transportation routes and taxi stands.
- (1) All vehicles using any temporary transportation route or taxi stand located within a special event zone must first pass an inspection conducted by the department of ~~code enforcement~~ business and neighborhood services division of ~~inspections~~ construction and business services to ensure the safety of the vehicle's operation. Any vehicle currently licensed by the city as a public vehicle for hire under Chapter 996 of the Code or by a state regulatory agency shall not require inspection.
- (2) All vehicles using any route or stand described above shall provide the ~~bureau of license and permit services~~ division of construction and business services with a copy of any fare schedule to be used during the duration of the special event.

**Sec. 986-301. Definition.**

As used in this article, *parade* shall mean any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or rallies or demonstrations, or any similar display, in or upon any street, partial street, sidewalk, alley park, or other outdoor place owned or under the control of the city. Funeral processions, lawful picketing in a labor dispute or orderly processions on the sidewalks that do not violate the provisions of this Code or

other city ordinances, and governmental agency acting within the scope of its functions are expressly excluded from this definition and licensure by the ~~bureau of license and permit services~~ division of construction and business services.

**Sec. 986-304. Criteria for special event license issuance specific to parades.**

The ~~bureau of license and permit services~~ division of construction and business services shall issue a special event license for a license including a parade when, from a consideration of the application and upon consultation with the department of public safety, and from such other information as may be obtained, shall find that:

- (1) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;
- (2) The conduct of the parade will not require the diversion of so great a number of Indianapolis Metropolitan Police Department officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;
- (3) The conduct of the parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed route and areas contiguous thereto;
- (4) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas;
- (5) The conduct of such parade will not interfere with the movement of firefighting equipment en route to a fire;
- (6) The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance;
- (7) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route;
- (8) The parade is not to be held for the sole purpose of advertising or promoting any commercial entity, its product or services, goods or event, and is not designed to be held purely for private profit; however, the prohibition against advertising or promoting any commercial entity, its product or services, goods or event shall not apply to signs identifying organizations or sponsors officially supporting the event, furnishing or sponsoring floats, or transportation for the parade. This provision shall not apply to any parade held for the benefit of any sports team or sports organization based in the city; or
- (9) The parade will not conflict with another licensed special event.

**ARTICLE IV. - ENFORCEMENT AND PENALTIES**

**Sec. 986-401. Violations; remedies.**

(a) A person who violates any provision of this chapter shall be punishable as provided in section 103-3 of the Code. Upon order of a court of competent jurisdiction, inspectors from the department of ~~code enforcement~~ business and neighborhood services or officers from the Indianapolis Metropolitan Police Department shall have the authority to seize and impound any and all tangible property related to non-licensed activity occurring during a civic sponsored special event.

(b) Any person engaged in the selling or distributing of illegal, non-licensed, or unauthorized merchandise, regardless of whether said person has received a license under this chapter, shall be subject to the immediate impoundment of said merchandise. Any Indiana Law Enforcement Academy certified officer employed by the event sponsor for copyright and merchandising purposes shall be authorized to inspect the merchandise of licensed entities related to copyright infringement and trademark violation.

(c) It shall be the duty of the department of ~~code enforcement~~ business and neighborhood services division of ~~inspections~~ construction and business services and the Indianapolis Metropolitan Police Department to enforce the provisions of this chapter. Both entities shall have the right to inspect the facilities, equipment, vehicle, or merchandise of any person or entity licensed under this chapter.

**Sec. 575-2. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section. The word "shall" is always mandatory and not merely directory.

*Authorized individual* means a designee of the director of the department of ~~code enforcement~~ business and neighborhood services.

*Environmental public nuisance* means:

- (1) Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
- (2) Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
- (3) A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
- (4) Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.

*Equipment* means such equipment as trucks, tractors, bulldozers and similar motor vehicles and hand-operated equipment such as weed trimmers and similar equipment.

*Excluded property* means:

- (1) Cultivated land in commercial, domestic, agricultural or horticultural use;
- (2) An existing natural or developed forest that does not create a health or safety hazard;
- (3) Vacant, open lands, fields or wooded areas more than one hundred fifty (150) feet from occupied property;
- (4) A nature habitat area more than one hundred fifty (150) feet from an occupied structure on adjacent property and determined by state and/or local governmental health authorities not to be a health or safety hazard;
- (5) A wetland area designated by the United States Department of Interior Fish and Wildlife Division on a National Wetlands Inventory Map and/or determined to be a wetland area by the Department of public works;
- (6) The portion of real property designated as a rain garden area and registered with the city's rain garden registry and agreement program; or
- (7) The portion of real property designated as a native wildlife planting area and registered with the city's native wildlife planting registry and agreement program.

*Governmental property* means real estate that is owned, leased, controlled or occupied by the United States, the State of Indiana, or any political subdivision thereof.

*Occupant* means the person, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization, or entity who is from time to time in possession or exercising dominion and control over the real estate or any house or other structure located thereon. Occupant shall include any lessee of the property.

*Owner* means the record owner or owners as reflected by the most current records in the county assessor's office.

*Private property* means all real estate within the city except governmental property.

*Recipient* means the owner or occupant to whom notice of violation has been directed.

*Repeat violation* occurs when a property owner or occupant who has previously been issued notice of a similar environmental public nuisance for the same property or who has been found by a hearing or judicial officer to have allowed a similar environmental public nuisance to exist at the same property allows a subsequent similar environmental public nuisance to exist at that property within eighteen (18) months of the date of the previous notice or finding of violation, whichever is later. A repeat violation does not occur when multiple violations of subsection (4) of the definition of environmental public nuisance are alleged and:

- (1) The owner or occupant can demonstrate that illegal dumping was the cause of the underlying violations; and
- (2) The owner or occupant has made a reasonable effort to prevent illegal dumping from recurring.

**Sec. 575-5. Determination of violation; notice of violation.**

(a) Any department of the city that receives a complaint regarding an environmental public nuisance on any property within the city shall forward that complaint to the department of ~~code enforcement~~ business and neighborhood services, which shall make a record of, and assign a case number to, such complaint. An authorized individual shall visually inspect the property in question. If the authorized individual determines that a violation exists, the department shall issue a notice of violation to the owner if the city intends to proceed under the provisions of section 575-7 of this chapter and, in the department's sole discretion, to the occupant. A notice of violation issued for vegetation of a height of twelve (12) inches or more remains in effect for the calendar year in which it is issued if the city abates the environmental public nuisance under the provisions of section 575-7 of this chapter. After such abatement by the city, without issuance of further notice, the city may continue to reinspect the subject property and may abate subsequent violations of vegetation of a height of twelve (12) inches or more and may recover its abatement costs under this chapter.

(b) Notice of violation described in subsection (a) shall be issued either by personal service or by first class United States mail, postage prepaid. Such notice shall state the nature of the alleged environmental public nuisance and the action deemed necessary to correct the condition, and shall fix a date not sooner than five (5) days from the date of the notice for vegetation of a height of twelve (12) inches or more, and ten (10) days from the date of the notice for all other violations under this chapter, when the property will be reinspected. The notice shall inform the recipient that, if the condition is not corrected upon reinspection, the city has the right to enter on the property to abate or correct the condition and bill the recipient for costs incurred in so doing. A notice to the occupant at the real estate or to the owner at the address to which property tax statements are sent as these addresses are shown by the most current records in the county assessor's office shall be sufficient notice under this subsection.

**Sec. 575-7. Failure to abate after notice; abatement by city.**

(a) Abatement by city. If, upon reinspection, it is determined by the authorized individual that abatement has not occurred, or if vegetation of a height of twelve (12) inches or more is present on a property in the same calendar year in which the city previously abated a violation of a similar nature on that property, then the director of the department of ~~code enforcement~~ business and neighborhood services, or his or her designee, may enter upon the premises and abate the environmental public nuisance. The recipient shall be liable for the costs of abatement. After abatement is completed, the department shall, either by personal service or first class United States mail, postage prepaid, send the recipient a bill for the costs of abatement.

(b) Responsibility of occupant or owner for costs of abatement.

- (1) Abatement costs. As reimbursement to the department of ~~code enforcement~~ business and neighborhood services for its costs, the recipient shall, within ten (10) days of the date of the bill, pay to the department the following fees and charges:
  - a. An administrative fee, provided in section 131-501 of the Code, for such administrative tasks as inspecting the property to determine compliance, determining ownership and preparing and mailing notices;
  - b. Any disposal fees actually incurred to dispose of litter and waste products removed;
  - c. Any other reasonable fees actually incurred in abating an environmental nuisance; and
  - d. Administrative, labor and equipment fees may be changed or established by regulation of the board of ~~code enforcement~~ business and neighborhood services as necessary to assure that such fees are adequate to reimburse the department.
- (2) Hearing. A recipient may request in writing an informal hearing before the director of the department of ~~code enforcement~~ business and neighborhood services, or his or her designee, to dispute the existence of a

- violation and/or the accuracy of all or part of the costs of abatement billed. Upon receipt of a hearing request, the department shall not take abatement action until after the director or his or her designee notifies the recipient of his or her decision. After such hearing, the director of the department of ~~code enforcement~~ business and neighborhood services, or his or her designee, shall determine the existence of a violation and/or the accuracy of all or part of the abatement costs billed and shall notify the recipient of any amounts due to the department. The decision of the director, or his or her designee, shall be final.
- (3) Unpaid costs become lien upon affected property; perfecting of lien. Upon the failure of the owner who was sent a bill to pay the appropriate fees and charges within the ten-day time period, the department of ~~code enforcement~~ business and neighborhood services shall have a lien upon the property on which the environmental public nuisance was abated for the amount billed in accordance with the fee schedule listed above. In addition, there will be a ten-dollar (\$10.00) charge for services necessary in order to perfect such lien. Such liens may be perfected in the following manner:
- a. By the adoption by the board of ~~code enforcement~~ business and neighborhood services at any regular or special meeting thereof of an assessment resolution, which shall give the name of the owner or owners, a description of the property on which the environmental public nuisance was abated, and the amount of the charges being assessed;
  - b. The certification of such assessment resolution to the county auditor, who by special assessment shall cause the amount thereof to be placed on a tax duplicate for the property on which the environmental public nuisance was abated for collection as in the nature of a real property tax; and
  - c. Upon receipt of a written verified request from the purchaser, the department shall release liens perfected after the recorded date of conveyance of the property. The request must state that the purchaser was not an owner or occupant of the property at the time of the notice of violation or at the time of the city's abatement without notice of a subsequent violation of a similar nature in a calendar year as provided in this chapter, had no knowledge of the notice of violation and has not been paid by the seller for the costs of abatement billed.
- (4) Civil action to recover costs of abatement. Upon the failure of the recipient who was sent the notice of violation and bill to pay the appropriate fees and charges within the ten-day period, the department of ~~code enforcement~~ business and neighborhood services may bring a civil action in court against such recipient to recover the amount billed, plus reasonable attorney's fees.

**Sec. 575-8. Existence of violation; court action or administrative adjudication for ordinance violation; court action or administrative adjudication for repeat violation.**

(a) In addition to or in lieu of the foregoing, if, upon inspection, it is determined by the authorized individual that an environmental public nuisance exists, the department of ~~code enforcement~~ business and neighborhood services may initiate a civil court action or administrative adjudication for ordinance violation against the owner or occupant of the property. A court action shall be initiated by submitting a written request to the corporation counsel to file a complaint of ordinance violation and/or to enjoin any environmental public nuisance. Administrative proceedings may be initiated by an authorized individual or by corporation counsel by following the procedures set forth in Chapter 103, Article V.

(b) Regardless of whether later abatement by the recipient has occurred, the department may initiate an administrative adjudication or a civil court action for any violation of this chapter.

**Sec. 575-9. Penalty.**

(a) Any owner or occupant found in violation of this chapter may be fined not more than two thousand five hundred dollars (\$2,500.00) for each violation. Each day such violation is permitted to continue shall constitute a separate violation. A previous violation of this chapter may be considered in determining the penalty assessed. Notwithstanding section 103-3 of this Code, a finding that a violation occurred or an admission that a violation occurred is not required to assess and recover a penalty if the recipient subject to the penalty agrees to pay the penalty pursuant to either an agreed judgment or consent decree in a court action for ordinance violation or a compliance agreement in an administrative adjudication.

(b) Notwithstanding paragraph (a) above, a recipient shall be fined two thousand five hundred dollars (\$2,500.00) for each repeat violation.

(c) The department of ~~code enforcement~~ business and neighborhood services may publish a list of the names of owners and occupants who have been cited for a repeat violation under this chapter and the addresses of the affected properties. The director shall determine the frequency of publication.

**Sec. 575-10. Variance.**

An owner or occupant may submit a written request for a variance to the board of ~~code enforcement~~ business and neighborhood services if compliance with this chapter will cause undue hardship to such owner or occupant without a sufficient corresponding benefit to the health or safety of the public. To receive consideration, such request must be received prior to the time the city abates the environmental nuisance on the property. Upon receipt of a request, the board of ~~code enforcement~~ business and neighborhood services shall schedule a hearing and notify the owner or occupant of the time and place. At least ten (10) days prior to the hearing, the owner or occupant shall notify in writing the owners and occupants of all property within one hundred fifty (150) feet of the property for which the variance is requested. The notice shall state the location of the property for which the variance is requested, the nature of the variance requested, and the time and place of the hearing. At the hearing, the owner or occupant requesting the variance, representatives of the city, representatives of state or local governmental health authorities and any person affected by the proposed variance may present evidence. After the hearing, the board of ~~code enforcement~~ business and neighborhood services may grant or deny the request. The decision of the board shall be final. Within ten (10) days of the decision, written notice of the board of ~~code enforcement~~ business and neighborhood services decision shall be given to the owner or occupant who requested the variance.

**Sec. 575-11. Rules and regulations.**

The board of ~~code enforcement~~ business and neighborhood services may, by resolution, promulgate rules and regulations necessary to implement and carry out the provisions of this chapter.

**Sec. 575-12. Release of liens.**

The board of ~~code enforcement~~ business and neighborhood services may release any liens for abatement costs or judgment liens for any other amount due pursuant to this chapter if it finds that the benefit to the city outweighs the detriment caused by such a release. The board may require parties affected by the release to agree to whatever conditions the board deems appropriate; provided, however, all conditions shall be set forth in a conditional release of the lien and shall be recorded in the office of the county recorder. If the board finds that an affected party has failed to comply substantially with the conditions imposed by the board, the release shall be void and the lien affecting the property may be reinstated by the board.

**Sec. 575-202. Definitions.**

As used in this article, the following terms shall have the meanings ascribed to them in this section:

*Abate or abatement* means the removal or complete covering of graffiti.

*Aerosol paint* means any color or pigment adapted or made for the purpose of being applied or sprayed to the surface of an object.

*Authorized individual* means a designee of the director of the department of ~~code enforcement~~ business and neighborhood services.

*Broad-tipped marker* means any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth (1/4) of an inch, containing ink or other pigmented liquid, that is not water soluble.

*Department* means the department of ~~code enforcement~~ business and neighborhood services or its designee.

*Etching equipment* means any tool, device, or substance than can be used to make permanent marks on any natural or man-made surface. It shall not mean any key, silverware, gardening tool, or pocketknife.

*Graffiti* means any unauthorized inscription, word, figure, design, painting, writing, drawing or carving that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed on a component of any building, structure, or other facility by any graffiti implement, visible from any public property, the public right-of-way, or from any private property other than the property on which it exists. There shall be a rebuttable presumption



that such inscription, word, figure, painting, or other defacement is unauthorized. This article does not apply to easily removable chalk markings on the public sidewalks and streets.

*Graffiti implements* mean materials used or intended to be used to facilitate the placement of graffiti, including but not limited to, aerosol paint containers, broad-tipped markers, gum labels, paint sticks, graffiti sticks, engraving devices or creams, etching equipment, brushes, chemicals or any other implement capable of scarring or leaving a visible mark on any natural or manmade surface.

*Manager* means any person, not the record owner, who has possession and control of the property or who has the right to possession and control of the property. The term does not include a tenant or sub-tenant who merely occupies the property.

*Owner* means the record owner or owners as reflected by the most current records in the county assessor's office.

*Paint stick or graffiti stick* means a device containing a solid form of paint, wax, epoxy, or other similar substance capable of being applied to a surface by pressure, that is not water soluble, and upon application, leaving a mark at least one-sixteenth (1/16) of an inch in width.

*Person* means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

*Recipient* means the owner or manager to whom notice of violation has been directed.

**Sec. 575-203. Prohibited activity.**

(a) It shall be unlawful for any person to apply graffiti to any natural or man-made surface on any city-owned property or on any non-city-owned property.

(b) The existence of graffiti on public or private property in violation of this article is an environmental public nuisance.

(c) It is the duty of both the owner of the property to which the graffiti has been applied and any manager of the property to at all times to keep the property free of graffiti.

(d) It shall be unlawful for a recipient to fail to remove or cover completely all graffiti within thirty (30) days after the date of the notice described in section 575-204 of the Code.

**Sec. 575-204. Determination of violation; notice of violation.**

(a) Any department of the city that receives a complaint regarding property within the city that is defaced by graffiti shall forward that complaint to the department of ~~code enforcement~~ business and neighborhood services, which shall make a record of, and assign a case number to, such complaint. An authorized individual shall visually inspect the property in question. If the authorized individual determines that the property has been defaced by graffiti, the department shall issue a notice of violation to the owner if the department intends to proceed under the provisions of section 575-206 and, in the department's sole discretion, to the manager of the property.

(b) A notice of violation as described in subsection (1) shall be issued either by personal service or by first class United States Mail, postage prepaid. The notice shall contain the following information:

- (1) The street address of the property;
- (2) The approximate location of the graffiti on such property;
- (3) A statement that the graffiti must be removed or covered completely within thirty (30) days after the date of the notice;
- (4) Information regarding graffiti abatement programs available through the city, if any; and
- (5) Information regarding the requirement for a certificate of appropriateness (COA) if the structure is protected by the Indianapolis Historic Preservation Commission or the Meridian Street Preservation Commission.

**Sec. 575-207. Rules and regulations.**

The board of ~~code enforcement~~ business and neighborhood services may, by resolution, promulgate rules and regulations necessary to implement and carry out the provisions of this chapter.

**Sec. 135-391. Animal care ~~and control~~ services shelter fund.**

There is hereby created a special fund to be designated the "animal care ~~and control~~ services shelter fund" for the purpose of promoting spay and neuter programs. The fund shall be administered by the department of ~~public safety~~ code enforcement business and neighborhood services. The fund shall consist of the fees collected from non-Marion County residents pursuant to section ~~251-322(a)~~ 226-512, or any other funding source not otherwise prohibited by law. This fund shall be a continuing, non-reverting fund with all balances remaining therein at the end of the year. Such balances shall not lapse into the consolidated county fund or be diverted for uses other than those stated in this section.

**Sec. 441-364. Vehicles on certain streets restricted.**

(a) The owner of any truck having a manufacturer's rating of more than one and one-half (1½) tons capacity, that is registered in the office of the secretary of state and used principally for the transportation and delivery of property between two (2) or more points situated within the city, including tractors, trailers, semitrailers and farm tractors, may file with the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services an application, on a form prescribed by such ~~bureau~~ division, for an annual permit to allow the truck or other vehicle to use and be driven upon the streets described in this section, upon the condition that the maximum gross weight of such vehicle and any load shall not exceed fifteen thousand (15,000) pounds in any instance, without obtaining from such ~~bureau~~ division a special emergency permit therefor, which special permit may be obtained without charge for any such use found by such ~~bureau~~ division to be necessary. No other streets shall be so used by any such vehicles without a special permit therefor, as herein authorized.

(b) Upon the proper execution and filing of an application and the payment of a fee provided in section 131-501 of the Code to the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services, to be credited to the city's general fund, such ~~bureau~~ division shall issue an annual permit for each truck or other vehicle, appropriately describing it by motor number or body number, and by license number. Such permit shall not be transferable from one (1) vehicle to another vehicle, and shall be carried by the operator of the vehicle or be attached thereto, and exhibited by the operator of any such vehicle upon the request of any police officer or other person charged with the duty of enforcing this chapter. The granting of any such permit shall not be subject to the issuance fee applicable to licenses.

(c) Except as provided in subsection (d) of this section, the provisions of this section shall not apply to any private passenger automobiles, to any vehicles carrying passengers for hire, to school buses, to motorcycles or motor scooters, or to any governmental vehicles.

(d) No passenger bus, school bus, delivery truck the maximum gross weight of which is fifteen thousand (15,000) pounds or greater, or tractor trailer shall use Georgia Street from Pennsylvania Street to Capitol Avenue, unless a prior written exemption is granted by the director of the department of public works or his designee.

(e) No motor vehicle of the following designated gross weights, with load, shall use the following enumerated streets, except such portions thereof as may be state highways:

NO TRUCKS  
10,000 POUNDS WEIGHT LIMIT

*Meridian Street*, Sixteenth Street to Eighty-sixth Street;

10,000 POUNDS GROSS WEIGHT

*Tenth Street*, from a point 150 feet east of Arlington Avenue to Emerson Avenue;  
*Sixteenth Street*, from Arlington Avenue to the east city limits;  
*Seventeenth Street*, from Central Avenue to College Avenue;  
*West Seventeenth Street*, from Bellevue Place to Lafayette Road (U.S. Highway 52);  
*Nineteenth Street*, from Central Avenue to Park Avenue;  
*Twentieth Street*, from Broadway Street to College Avenue;  
*Twentieth Street*, from Parker Avenue to Olney Street;

*Thirty-third Street*, from Keystone Avenue to Temple Avenue;  
*Fifty-first Street*, from Hillside Avenue to a point 150 feet east thereof;  
*East Sixty-fourth Street*, from Keystone Avenue to Rural Street;  
*West Seventy-sixth Street Bridge*, over Crooked Creek, in Pike Township;  
*East Ninety-fifth Street*, from College Avenue to Pennsylvania Street;  
*Addison Street*, from Oliver Street to McCarty Street;  
*Addison Street*, from Washington Street to Turner Avenue;  
*Alabama Street*, from Terrace Avenue to Lincoln Street;  
*Arlington Avenue*, from Tenth Street to Brookville Road;  
*Audubon Road*, from Washington Street to Brookville Road;  
*North Audubon Road*, from east Tenth Street to East Sixteenth Street;  
*Barrett Avenue*, from Belmont Avenue to Eagle Creek;  
*Bazil Avenue*, from Washington Street to Tenth Street;  
*Bellevue Place*, from Sixteenth Street to Lafayette Road (U.S. Highway 52);  
*Bellevue Place*, from Oliver Street to McCarty Street;  
*Bellevue Place*, from Washington Street to Turner Avenue;  
*Bellevue Place*, from Washington Street to Turner Street;  
*Belmar Avenue*, from Washington Street to Tenth Street;  
*Blaine Avenue*, from Morris Street to Minnesota Street;  
*Blaine Avenue*, from Morris Street to I-70;  
*Boehning Street*, from Washington Street to Tenth Street.  
*Boulevard Place*, from Thirty-eighth Street to Westfield Boulevard;  
*Bradley Street*, from East Washington Street to Moore Avenue;  
*Broadway Street*, from Sixteenth Street to Twenty-first Street;  
*Broadway Street*, from Thirty-eighth Street to Westfield Boulevard;  
*Brookside Avenue*, from Tenth Street to Parker Avenue;  
*Butler Avenue*, from Twenty-third Street to Twenty-fourth Street;  
*Butler Avenue*, from Twenty-fifth Street to Thirtieth Street;  
*Capitol Avenue*, from Sixteenth Street to Westfield Boulevard;  
*Carvel Avenue*, from Forty-sixth Street to Fifty-second Street;  
*Cecil Avenue*, from Washington Street to Tenth Street;  
*Central Avenue*, from East Ninety-first Street to East Ninety-sixth Street;  
*Central Avenue*, from Fort Wayne Avenue to Westfield Boulevard;  
*College Avenue*, from Ninth Street to the north city limits;  
*Cruft Street*, from Shelby Street to Villa Avenue;  
*Davis Drive*, from Mooresville Road to Murray Street;  
*Dearborn Street*, from Fifty-eighth Street to Kessler Boulevard;  
*Delaware Street*, from a point 350 feet south of Palmer Street to Adler Street;  
*Devon Avenue*, from Washington Street to Tenth Street;  
*Eastern Avenue*, from Thirtieth Street to Thirty-second Street;  
*Eaton Avenue*, from Washington Street to Tenth Street;  
*Edmondson Avenue*, from Washington Street to East Tenth Street;  
*South Emerson Avenue*, from Washington Street to Brookville Road;  
*Fall Creek Parkway, North Drive*, from Thirty-eighth Street to Meridian Street;  
*Fenton Avenue*, from Washington Street to Tenth Street;  
*Frontage Road*, from Post Road to Wittfield Street;  
*German Church Road*, from Brookville Road to Washington Street;  
*Gibson Avenue*, from Washington Street to Tenth Street;  
*Glen Arm Road*, from Tenth Street to Eleventh Street;  
*North Graham Avenue*, from East Tenth Street to East Sixteenth Street;  
*Hamblen Drive, East*, from 1750 South Hamblen Drive to 1900 South Hamblen Drive;  
*Hamblen Drive, West*, from 1750 South Hamblen Drive to 2050 South Hamblen Drive;  
*Harbison Avenue*, from Washington Street to Tenth Street;  
*Hawthorne Lane*, from Twenty-seventh Street to Thirtieth Street;  
*Henry Street*, from McClure Street to Luett Avenue;  
*Hiatt Street*, from Wyoming Street to Oliver Avenue;  
*Hillside Avenue*, from Twenty-fifth Street to Thirtieth Street;  
*Hillside Avenue*, from Forty-sixth Street to Fifty-first Street;  
*Hobart Road*, from Walker Avenue to Wade Street;  
*Holmes Avenue*, from Oliver Street to McCarty Street;  
*Holmes Avenue*, from Washington Street to Turner Avenue;  
*Howard Street*, from Belmont Avenue to Pershing Avenue;

*Illinois Street*, from Fortieth Street to Westfield Boulevard;  
*Kansas Street*, from Meridian Street to Senate Avenue;  
*Kappes Street*, from Morris Street to Wilkins Street;  
*Kappes Street*, from Wyoming Street to Oliver Avenue;  
*Kealing Avenue*, from East Ninth Street to East Tenth Street;  
*North Kildare Avenue*, over Brookside Creek, in Center Township;  
*Kingsley Drive*, from East Forty-sixth Street to East Fifty-second Street;  
*Lambert Street*, from Belmont Street to Pershing Avenue;  
*Lee Street*, from Morris Street to Wilkins Street;  
*North Lesley Avenue*, from East Tenth Street to East Sixteenth Street;  
*Luet Avenue*, from Washington Street to Oliver Avenue;  
*Lynhurst Drive*, from Mooresville Road to dead end;  
*Lyons Avenue*, from Mooresville Road to Kentucky Avenue;  
*Madison Avenue*, from Pleasant Run Parkway to Southern Avenue;  
*Marlin Road*, from a point 2,435 feet east of Senour Road to Carroll Road;  
*Martha Street*, from Belmont Avenue to Pershing Avenue;  
*Maywood Road*, from Gimber Street and Tibbs Avenue to Warman Avenue;  
*McClure Street*, from Washington Street to Oliver Avenue;  
*McGaughey Road*, from Southeastern Avenue to Post Road;  
*Michigan Street*, from Franklin Road to Post Road;  
*Mills Avenue*, on both sides from Madison Avenue to East Street;  
*Minnesota Street*, from Sherman Drive to Emerson Avenue;  
*Mount Street*, from Washington Street to Turner Avenue;  
*New Jersey Street*, from Terrace Avenue to Lincoln Street;  
*New York Street*, from Franklin Road to Post Road;  
*New York Street*, from Highland Avenue to Emerson Avenue;  
*Park Avenue*, from Nineteenth Street to Twenty-first Street;  
*Pennsylvania Street*, from Sixteenth Street to Westfield Boulevard;  
*Perry Street*, from Mooresville Road to Murray Street;  
*Pershing Avenue*, from Washington Street to Turner Avenue;  
*South Pershing Avenue*, from Morris Street to Howard Street;  
*Ralston Avenue*, from Twenty-second Street to Twenty-fifth Street;  
*Ralston Avenue*, from Twenty-fifth Street to Thirtieth Street;  
*Reisner Street*, from Morris Street to Oliver Avenue;  
*Richland Street*, from Wyoming Street to Oliver Avenue;  
*Richland Street*, from Morris Street to Wilkins Street;  
*Ritter Avenue*, from Tenth Street to Brookville Road;  
*North River Road*, from East Eighty-second Street (State Road 100) to North County Line Road;  
*South River Road*, from Keystone Avenue to East Eighty-second Street (State Road 100);  
*Riverside Drive East*, from Eighteenth Street to Twenty-ninth Street;  
*Robson Street*, from Gale Street to Sherman Drive;  
*Roosevelt Avenue*, from Hillside Avenue to Sherman Drive;  
*Ruckle Street*, from Sixteenth Street to Twenty-first Street;  
*St. Paul Street*, from Southeastern Avenue to English Avenue;  
*Sargent Road*, from Fall Creek Road to Ninety-sixth Street;  
*Sheffield Avenue*, from Howard Street to Morris Street;  
*Sheffield Avenue*, from Washington Street to Turner Avenue;  
*Shelby Street*, from Epler Avenue to US [431](#);  
*Shepard Street*, from Wyoming Street to Oliver Avenue;  
*Sherman Drive*, from Thirtieth Street to Thirty-eighth Street;  
*Singleton Street*, from Raymond Street to Le Grande Avenue;  
*Southern Avenue*, from Madison Avenue to Shelby Street;  
*Sugar Grove Avenue*, from Eighteenth Street to Twenty-second Street;  
*Tacoma Avenue*, from Thirtieth Street to Thirty-fourth Street;  
*Tacoma Avenue*, from East Sixty-second Street to East Sixty-fourth Street;  
*Temple Avenue*, from Thirtieth Street to Thirty-fourth Street;  
*Temple Avenue*, from East Sixty-second Street to East Sixty-fourth Street;  
*Terrace Avenue*, from Madison Avenue to Wright Street;  
*Tremont Street*, from Washington Street to Turner Avenue;  
*Union Street*, from Merrill Street to Adler Street;  
*East Vermont Street*, from Gale Street to North Kealing Avenue;  
*West View Drive*, from Belmont Avenue to Lee Street;

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*Washington Boulevard*, from East Ninety-first Street to East Ninety-sixth Street;  
*White River Parkway, East Drive*, from Tenth Street to New York Street;  
*Wilkens Street*, from Belmont Avenue to Blaine Avenue;  
*Windsor Street*, from Tenth Street to Nowland Avenue;  
*Wyoming Street*, from Belmont Avenue to Reisner Street;

11,000 POUNDS GROSS WEIGHT

*An alley*, being the first, west of Senate Avenue, from Morris Street to Wilkens Street;  
*Tenth Street*, from Delaware Street to Central Avenue;  
*Tenth Street Frontage Road (998 N.)*, from Thorndale Street to 10th Street (7125 W.);  
*Eleventh Street*, from Arsenal Avenue to Brookside Avenue;  
*Thirteenth Street*, from Shadeland Avenue to Shortridge Road;  
*Twenty-third Street*, from Parker Avenue to Wheeler Street;  
*Twenty-fourth Street*, from Arlington Avenue to Kenyon Street;  
*Twenty-fourth Street*, from Hillside Avenue to Keystone Avenue;  
*Twenty-fifth Street*, from Harding Street to Burton Avenue;  
*Twenty-fifth Street*, from Dr. Martin Luther King, Jr. Street to a point 200 feet east of Clifton Street;  
*Twenty-fifth Street*, from Post Road to German Church Road;  
*Twenty-sixth Street*, from Harding Street to Burton Avenue;  
*Twenty-seventh Street*, from Brouse Avenue to Keystone Avenue;  
*Twenty-eighth Street*, from Brouse Avenue to Keystone Avenue;  
*Twenty-eighth Street*, from Georgetown Road to Mussman Drive;  
*Twenty-eighth Street*, from Harding Street to E. Riverside Drive;  
*Twenty-ninth Street*, from Brouse Avenue to Keystone Avenue;  
*Thirty-second Street*, from Moller Road east to Beeler Avenue;  
*Thirty-fifth Street*, from Ralston Avenue to Orchard Avenue;  
*Fortieth Street*, from Arlington Avenue to Emerson Avenue;  
*Forty-second Street*, from Millersville Road to Sherman Drive;  
*Fifty-sixth Street*, from Emerson Way to I-465;  
*Fifty-ninth Street*, from Georgetown Road to Guion Road;  
*Sixty-fifth Street*, from Allisonville Road to a point 287 feet west of Rural Street;  
*Seventy-first Street* from Hague Road to Fairwood Drive;  
*Seventy-second Street*, from Coffman Road to New Augusta Road;  
*Seventy-fifth Street*, from Westfield Boulevard to Edgewater Drive;  
*Seventy-ninth Street*, from Moore Road to Innovation Boulevard;  
*Eightieth Street*, from Keystone Avenue to Westfield Boulevard;  
*Eighty-fourth Street*, from College Avenue to Evergreen Avenue;  
*Ninety-first Street*, from Westfield Boulevard to Haverstick Road;  
*Admiral Drive*, from Twenty-first Street to Kenyon Street;  
*Alabama Street*, from Fort Wayne Avenue to Sixteenth Street;  
*Allison Avenue*, from Thirty-fourth Street to Ruskin Place;  
*Alton Avenue*, from Sixteenth Street to Twenty-first Street;  
*Applegate Street*, from Nelson Avenue to Southern Avenue;  
*Arbor Avenue*, from Oliver Avenue to Gillette Street;  
*Arsenal Avenue*, from Tenth Street to Twelfth Street;  
*Arthur Avenue*, from Cossell Road to Vermont Street;  
*Asbury Street*, from Bradbury Avenue to Walker Avenue;  
*Asbury Street*, from Minnesota Street to Lawton Avenue;  
*Bancroft Street*, from Michigan Street to Tenth Street;  
*Banta Road*, from Belmont Street to Tibbs Avenue;  
*Banta Road*, from Bluff Road to East Street;  
*Banta Road*, from Stanley Road to Ratliff Road;  
*Barrington Avenue*, from Minnesota Street to Rural Street;  
*Bauman Street*, from Tenth Street to Thirteenth Street;  
*Beechcrest Drive*, from Southern Avenue to Woodcliff Drive;  
*Beechwood Avenue* between Franklin Road and Post Road;  
*Beeler Avenue*, from Thirtieth Street east to Thirty-second Street;  
*Bellefontaine Street*, from Twenty-second Street to Twenty-third Street;  
*Bertha Street*, from Auburn Street west to Hardin Boulevard;  
*Boehning Avenue*, from Twenty-fifth Street to Routiers Avenue;  
*Bradbury Avenue*, from Bradbury connector road (4250 west) to Holt Road;

*Brill Road*, from Southern Avenue to Troy Avenue;  
*Brookside Parkway, North Drive*, from Brookside Avenue to Olney Street;  
*Brookside Parkway, South Drive*, from Jefferson Avenue to Sherman Drive;  
*Brookville Road*, from Emerson Avenue to English Avenue;  
*Brookville Road*, from Bradley Street to Emerson Avenue;  
*Bursdal Parkway*, from White River Parkway, East Drive, to Barnes Avenue;  
*Butler Avenue*, from Lexington Avenue to English Avenue;  
*Calvary Street*, from English Avenue to Shelby Street;  
*Calvin Street*, from Bethel Avenue to Legrande Avenue;  
*Carlsen Avenue*, from Girls School Road to Thorndale Street;  
*Carrollton Avenue*, from Twenty-fifth Street to Guilford Avenue;  
*Catherwood Avenue*, from Twenty-first Street to Windsor Drive;  
*Chapelwood Boulevard*, from a point 637 feet south of Tenth Street to St. Clair Street;  
*Chase Street*, from Oliver Avenue to Henry Street;  
*Cherry Lake Road*, from Thirtieth Street to Kyle Court;  
*Chester Avenue*, from Twenty-sixth Street to Thirtieth Street;  
*Church Street*, from Morris Street to Wilkens Street;  
*Clifton Street*, from Twenty-fifth Street to Dr. Martin Luther King, Jr. Street;  
*Coffey Street*, from Oliver Avenue to Henry Street;  
*Cold Spring Road*, from Lafayette Road to Thirty-eighth Street;  
*Colorado Avenue*, from Tenth Street to Sixteenth Street;  
*Commerce Avenue*, from Massachusetts Avenue to 12th Street;  
*Conarro Road*, from Seventy-ninth Street to Eighty-sixth Street;  
*Concord Street*, from Banta Road to Epler Avenue;  
*Conrad Avenue*, from Belmont Avenue to Pershing Avenue;  
*Cottage Avenue*, from Perkins Avenue to Rural Street;  
*Dandy Trail*, from Crawfordsville Road north to 38th Street;  
*Dawson Street*, from Minnesota Street to Lawton Avenue;  
*Dearborn Street*, from Thirtieth Street to Thirty-fourth Street;  
*Delaware Street*, from Ninety-first Street to Ninety-sixth Street;  
*Denny Street*, from Tenth Street to Eleventh Street and from Thirteenth Street to a point one hundred feet south of Sixteenth Street;  
*Denny Street*, from Twenty-sixth Street to Thirtieth Street;  
*Dobson Street*, from Seventy-first Street to Seventy-fourth Street;  
*Doris Drive*, from Girls School Road to Sixteenth Street;  
*Draper Street*, from Raymond Street to Legrande Avenue;  
*Dunk Drive*, from Gerrard Avenue to Moller Road;  
*Dunlap Avenue*, from Minnesota Street to Plainfield Avenue;  
*East Street*, from Troy Avenue to Southern Avenue;  
*Eleanor Avenue*, from Tenth Street to Thirteenth Street;  
*Elizabeth Street*, from Thirty-eighth Street to Massachusetts Avenue;  
*Ellenberger Parkway, East Drive*, from St. Clair Street to Ritter Avenue;  
*Ellenberger Parkway, West Drive*, from St. Clair Street to Tenth Street;  
*Elrico Drive*, from Eighty-sixth Street to Ninety-first Street;  
*Emerson Avenue*, from Washington Street to Tenth Street;  
*Englewood Drive*, from Sixteenth Street to Pleasant Run Parkway, South Drive;  
*Epler Avenue*, from Bluff Road to Harding Street;  
*Epler Avenue*, from Concord Street to Warman Avenue;  
*Evergreen Avenue*, from Eighty-fourth Street to Eighty-fifth Street;  
*Ewing Street*, from Tenth Street to Brookside Parkway South Drive;  
*Fall Creek Road*, from Kessler Boulevard East Drive to Shadeland Avenue;  
*Fall Creek Road*, from Shadeland Avenue to Ninety-sixth Street;  
*Fall Creek Parkway, East Drive*, from Tenth Street to Sixteenth Street;  
*Fall Creek Parkway North Drive*, from Binford Boulevard to Fifty-sixth Street;  
*Fall Creek Parkway, North Drive*, from Kessler Boulevard to Fall Creek Road;  
*Farley Drive*, from Eleventh Street to Doris Drive;  
*Farnsworth Street*, from Holt Road to Maywood Road (Tibbs Avenue);  
*Fletcher Avenue*, from Calvary Street to State Avenue;  
*Fletcher Avenue*, from State Avenue to St. Paul Street;  
*Flynn Road*, from Ameriplex Parkway to Raceway Road;  
*Foltz Street*, from Troy Street to Ironton Street;  
*Forest Manor Avenue*, from Twenty-sixth Street to Thirtieth Street;

*Franklin Road*, from Washington Street to Twenty-first street;  
*Gale Street*, from Tenth Street to Brookside Parkway South Drive;  
*East Garfield Drive*, from Shelby Street to South Garfield Drive;  
*South Garfield Drive*, from Raymond Street to East Garfield Drive;  
*Gatwick Drive*, from Sterling Pointe Drive to a point 1,050 feet northwest of Sterling Pointe Road;  
*Glen Arm Road*, from Tenth Street to Fourteenth Street;  
*Glenn Drive*, from Parker Avenue to Wheeler Street;  
*Grand Avenue*, from Lexington Avenue to English Avenue;  
*Guilford Avenue*, from Twenty-fifth Street to Thirtieth Street;  
*Haines Avenue*, from Belmont Avenue to Pershing Avenue;  
*Halsted Drive*, from Girls School Road to Radburn Drive;  
*Hamilton Avenue*, from English Avenue to Southeastern Avenue;  
*Harris Avenue*, from Washington Street to Vandalia Avenue;  
*Hartman Drive*, from Pendleton Pike to Thirty-eighth Street;  
*Haverick Road*, from Eighty-sixth Street to Ninety-first Street;  
*Henry Street*, from Harding Street to Drover Street;  
*Highland Avenue*, from Washington Street to Marlowe Avenue;  
*Highland Avenue*, from Marlowe Avenue to New York Street;  
*Hiner Lane*, from Shadeland Avenue to Shortridge Road;  
*Hoyt Avenue*, from Sherman Drive to Grant Avenue;  
*Illinois Street*, from Morris Street to Wilkens Street;  
*Jackson Place*, from Illinois Street to McCrea Street;  
*Johnson Road*, from Fall Creek Road to Seventy-fifth Street;  
*Katherine Drive*, from Stop 11 Road to McGregor Road;  
*Kealing Avenue*, from Tenth Street to Brookside Parkway South Drive;  
*Kelly Street*, from Churchman Avenue to Keystone Avenue;  
*Kenwood Avenue*, from Morris Street to Wilkens Street;  
*Kenyon Street*, from Twenty-first Street to Twenty-fifth Street;  
*Kessler Boulevard North Drive*, from Sixteenth Street to Fifty-sixth Street;  
*Kessler Boulevard West Drive and East Drive*, from Fifty-sixth Street to Fall Creek Parkway North Drive;  
*Kitley Avenue*, from a point 230 feet north of Twenty-first Street to Twenty-fifth Street;  
*Kitley Avenue*, from a point 1,120 feet south of Washington Street to Pleasant Run Parkway, S. Drive;  
*Kittley Road*, from Brookville Road to Vandergriff Road;  
*Kollman Road*, from Decatur Boulevard to Thompson Road;  
*Lake Road*, from Wicker Road to a point 4,330 feet south of Southport Road;  
*Lawrence Avenue*, from East Street to Madison Avenue;  
*Legrande Avenue*, from State Avenue to Laurel Street;  
*Lesley Avenue*, from Thirtieth Street to Massachusetts Avenue;  
*Lexington Avenue*, from Harlan Street to St. Paul Street;  
*Lockerbie Street*, from East Street to College Avenue;  
*Louise Drive*, from Mary Lane to Katherine Drive;  
*Lupine Terrace*, from Thirty-fourth Street to Lupine Drive;  
*Manderley Drive*, between Eighty-sixth Street and Ninety-first Street;  
*Margaret Avenue*, from Sherman Drive to Woodcliff Drive;  
*Markwood Avenue*, from East Street to Madison Avenue;  
*Marsh Road*, from Seventy-First Street to Seventy-Ninth Street;  
*Mary Lane*, from Stop 11 Road to McGregor Road;  
*Melvenia Street*, from Lexington Avenue to Fletcher Avenue;  
*Mendenhall Road*, from Decatur Boulevard to Narita Road;  
*Mildred Drive*, from Thirtieth Street to Maren Drive;  
*Miley Avenue*, from Washington Street to Ohio Street;  
*Milhouse Road*, from Decatur Boulevard to Flynn Road;  
*Millersville Road*, from Forty-second Street to Forty-sixth Street;  
*Millhouse Road*, between State Road 67 and Decatur Boulevard;  
*Minnesota Street*, from Bethel Avenue to LaSalle Street;  
*Minocqua Avenue*, from Minocqua Street to a point 500 feet north of Cottage Avenue;  
*Moore Road*, from Lafayette Road to Ninety-sixth Street;  
*Morton Avenue*, from Belmont Avenue to Pershing Avenue;  
*Mussman Drive*, from Thirtieth Street to Twenty-eighth Street;  
*Nelson Avenue*, from Allen Avenue to Shelby Street;  
*Northeastern Avenue*, from Franklin Road to Southeastern Avenue;  
*Nowland Avenue*, from Windsor Street to Jefferson Avenue;

*Oliver Avenue*, from Holt Road to Tibbs Avenue;  
*Oliver Avenue*, from Lynhurst Drive west to Armentrout Lane;  
*Oxford Street*, from Thirty-fourth Street to Thirty-eighth Street;  
*Park Avenue*, from New York Street to Michigan Street;  
*Parker Street*, from Twenty-fifth Street to a point 200 feet south of Twenty-third Street;  
*Patricia Street*, from Moller Road east to Beeler Avenue;  
*Payne Road*, from Seventy-ninth Street to Eighty-sixth Street;  
*Pennsylvania Street*, from Schiller Street to LeGrande Avenue;  
*Perkins Avenue*, from Bethel Avenue to a point 300 feet north of Cottage Avenue;  
*Pershing Avenue*, from Minnesota to D.E. South;  
*Pershing Avenue*, on the west side, from the north curbline of Eleventh Street to a point 45 feet north on Pershing Avenue;  
*Pershing Avenue*, on the west side, from the north curbline of Fourteenth Street to a point 45 feet north;  
*Pine Street*, from I-70 (Fletcher Avenue) to Elm Street;  
*Pleasant Run Parkway, North Drive*, from Audubon Road Bridge to Arlington Avenue;  
*Pleasant Run Parkway, North Drive*, from Colorado Avenue underpass to Michigan Street;  
*Pleasant Run Parkway, North Drive*, from English Avenue to Brookville Road;  
*Pleasant Run Parkway, North Drive*, from Southern Avenue to Prospect Street;  
*Pleasant Run Parkway, South Drive*, from Arlington Avenue to Tenth Street;  
*Pleasant Run Parkway, South Drive*, from Emerson Avenue to Audubon Road Bridge;  
*Pleasant Run Parkway, South Drive*, from English Avenue to Colorado Underpass;  
*Pleasant Run Parkway, South Drive*, from Raymond Street to Keystone Avenue;  
*Pleasant Run Parkway, South Drive*, from Shadeland Avenue to Arlene Drive;  
*Pleasant Run Parkway, South Drive*, from Southern Avenue to Madison Avenue.  
*Pleasant Run Parkway, South Drive*, from Tenth Street to Shadeland Avenue;  
*Pleasant Street*, from Harlan Street to St. Paul Street;  
*Pollard Street*, from Seventy-first Street to Seventy-fourth Street;  
*Purdy Street*, from Seventy-first Street to Seventy-second Street;  
*Randolph Street*, from Cruft Street to Troy Avenue;  
*Randolph Street*, from Minnesota Street to Lawton Avenue;  
*Ransdell Street*, from Sumner Avenue to Werges Avenue;  
*Riley Avenue*, from Michigan Street to Tenth Street;  
*Roache Street*, from Burton Avenue to Dr Martin Luther King, Jr. Street;  
*Routiers Avenue*, from Thirtieth Street to Twenty-fifth Street;  
*Roy Road*, from Post Road to Routiers Avenue;  
*Rucker Road*, from Fall Creek Road to Sixty-second Street;  
*Rural Street*, from Thirtieth Street to Thirty-fourth Street;  
*Rural Street*, from Thirty-fourth Street to Thirty-eighth Street;  
*Ruskin Place West*, from Moller Road to Allison Avenue;  
*St. Clair Street*, from Girls School Road to Westmore Drive;  
*St. Paul Street*, from Raymond Street to Beecher Street;  
*St. Paul Street*, from Woodlawn Avenue to Lexington Avenue;  
*St. Peter Street*, from English Avenue to Southeastern Avenue;  
*Schiller Street*, from the first alley east of Meridian Street to Pennsylvania Street;  
*Senate Avenue*, from Wisconsin Street to Wilkins Street;  
*Shanghai Road*, from Lafayette Road to Seventy-first Street;  
*Sheridan Avenue*, from Southeastern Avenue to Troy Avenue;  
*Shortridge Road*, from Tenth Street to Fourteenth Street;  
*Spencer Avenue*, from Lexington Avenue to English Avenue;  
*Spring Mill Road*, from Ninety-sixty Street to Kessler Boulevard, West Drive;  
*Stanley Avenue*, from Camby Road to Banta Road;  
*Stanley Avenue*, from Nelson Avenue to Southern Avenue;  
*Sterling Pointe Drive*, between State Road 67 and Kirkwood Club Drive;  
*Stop 10 Road*, from Madison Avenue to Shelby Street;  
*Temple Avenue*, from English Avenue to Hoyt Avenue;  
*Thompson Road*, from Sandhurst Drive to Warman Avenue;  
*Thompson Road*, from State Road 67 to Decatur Boulevard;  
*Trowbridge Street*, from English Avenue to Hoyt Avenue;  
*Udell Street*, from Harding Street to Riverside Drive;  
*Valley Mills Avenue*, from Depot Street to Kollman Road;  
*Van Buren Street*, from 1500 feet west of State Avenue to Linden Street;  
*Vermont Street*, from East Street to College Avenue;



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*Villa Avenue*, from Raymond Street to Reformers Avenue;  
*Villa Avenue*, from Walker Street to Troy Avenue;  
*Village Way*, from Eighty-sixth Street to Ninety-sixth Street;  
*Waldemere Avenue*, from Washington Street to Chelsea Road;  
*Washington Boulevard*, from Fall Creek Parkway, North Drive, to Westfield Boulevard;  
*Westmore Drive*, from Tenth Street to St. Clair Street;  
*Wheeler Street*, from Twenty-fifth Street to a point 375 feet south of Twenty-third Street;  
*White River Parkway, East Drive*, from Tenth Street to New York Street;  
*White River Parkway, East Drive*, from West Eighteenth Street to West Thirtieth Street;  
*White River Parkway, East Drive*, from West Thirtieth Street to West Thirty-eighth Street;  
*White River Parkway West Drive*, from Thirtieth Street to Cold Spring Road;  
*Windsor Drive*, from Arlington Avenue to Kenyon Street;  
*Woodcliff Drive*, from Beechcrest Drive to Sherman Drive;  
*Woodlawn Avenue*, from Virginia Avenue to Leonard Street;

16,000 POUNDS GROSS WEIGHT

*East Seventy-fifth Street*, over Williams Creek;  
*Market Street*, from Miley Avenue to Indianapolis Union Railroad Tracks (1650 W); and

20,000 POUNDS GROSS WEIGHT

*Southern Avenue*, from Tibbs Avenue to Centennial Street.

#### **Sec. 103-501. Definitions.**

As used in this article, the following terms shall have the meanings ascribed to them in this section.

~~*Bureau of environmental services*~~ *Division of property and land use services* means the ~~bureau of environmental services~~ *division of property and land use services* of the department of ~~code enforcement~~ *business and neighborhood services*, or its designee.

*DPW* means the department of public works.

*Environmental violation* means a violation of a provision of the Code for which the ~~bureau of environmental services~~ *division of property and land use services* has enforcement authority pursuant to section 226-403 of the Code.

*Party* and *parties* means and includes the city and respondents.

*Respondent* means a person to whom a notice of hearing is issued pursuant to section 103-504 of this article.

#### **Sec. 103-504. Notice of administrative hearing.**

(a) Whenever DPW or the ~~bureau of environmental services~~ *division of property and land use services* issues a notice of violation for an environmental violation or determines that an environmental public nuisance as defined in Chapter 575 exists, DPW or the ~~bureau of environmental services~~ *division of property and land use services* may either refer the matter to the city prosecutor to file an enforcement action in court, or issue a notice of administrative hearing as provided in this article.

(b) Service of notice of administrative hearing shall be by United States mail to the respondent's last known address, or by personal service. For a violation of chapter 575, a notice of administrative hearing sent by United States mail, postage prepaid, to the owner of said real estate at the address to which property tax statements for the real estate are sent, as these addresses are shown by the most current records in the assessor's office, shall be sufficient notice to the property owner under this section. Service on an artificial person or a person incompetent to receive service shall be made on a person allowed to receive service under the rules governing civil actions in the courts. A record of the time, date and manner of service shall be kept.

(c) A copy of each notice issued pursuant to this section shall be delivered to the hearing officer who will preside over the hearing.

(d) Each notice of administrative hearing shall include the following information:

- (1) A caption for the hearing, which shall include the name of each party expected to participate in the hearing, and an official file or other reference number;
  - (2) A statement of the date, time and place of the hearing;
  - (3) A statement of the nature of the hearing, including the legal authority under which the hearing is to be held, and a summary of the parties' procedural rights at the hearing;
  - (4) A statement of the date, time, place, and nature of each alleged violation, and the maximum penalty that can be imposed thereupon;
  - (5) The official title, and mailing address of the hearing officer and a telephone number through which information concerning the hearing may be obtained;
  - (6) The official title, mailing address and telephone number of the person who has been designated to appear on behalf of the city; and
  - (7) A statement that a party who fails to respond to the notice of the hearing, or to participate in the hearing, may be held in default.
- (e) Notice of administrative hearing shall be issued at least twenty (20) days prior to the date of the hearing.

**Sec. 103-507. Hearing procedures.**

(a) The hearing officer shall afford all parties the opportunity to participate in the hearing to the extent necessary for full consideration of all relevant facts and issues. A party may present evidence in the form of testimony, affidavits and documentation, engage in argument, and conduct cross-examination. A party may participate in person or by counsel at the party's own expense; if the party is not an individual or is incompetent to participate, then the party shall participate by a duly authorized representative.

(b) The city shall have the burden of proving the environmental violation and the burden may be sustained by a preponderance of the evidence.

(c) The hearing officer shall conduct the hearing in an informal manner and without strict adherence to the technical rules of evidence and procedure which govern judicial proceedings. The hearing officer shall rule on the admissibility of any offer of proof, and on other motions, and shall exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds. The testimony of each party and witness shall be made under oath or affirmation.

(d) The hearing officer may take official notice of any section of the Code, and any law or fact that could be judicially noticed in the courts.

(e) The hearing officer shall cause an audio recording of the hearing to be made at the expense of the city.

**Sec. 103-511. Written transcript of hearing; preparation and cost.**

At the written request of respondent, DPW or the ~~bureau of environmental services~~ division of property and land use services shall provide a written transcript of the audio tape recording of the hearing. Respondent shall pay DPW or the ~~bureau of environmental services~~ division of property and land use services the reasonable cost of preparing the written transcript, unless respondent files with the hearing officer under oath and in writing, a statement of indigency as described in IC 33-37-3-2. Respondent may cause to be prepared, at his or her own expense, a written transcript that DPW or the ~~bureau of environmental services~~ division of property and land use services shall review and certify as to accuracy.

**Sec. 391-203. Abatement by the division of ~~inspections~~ construction and business services; fire department and Indianapolis metropolitan police department; health and hospital corporation.**

(a) The division of ~~inspections~~ construction and business services of the department of ~~code enforcement~~ business and neighborhood services, acting in cooperation with the chiefs of the fire department and Indianapolis metropolitan police department and the officers of the health and hospital corporation, is charged with the

duty of inspecting any building constituting a nuisance under this chapter and the division, or any of such officials, shall aid in abating any such nuisance and in enforcing the law in all matters within their respective jurisdiction and duties.

(b) Whenever the division of ~~inspections~~ construction and business services has information from any source, including any of the officials named in subsection (a), that any building is alleged to be a nuisance within the provisions of this chapter, it shall cause an examination thereof to be made. If, in its opinion after such examination, the building constitutes a nuisance within the provisions of this chapter, it shall serve written notice upon the owner of the building or the person in possession, charge or control thereof, directing him or her to abate the nuisance, if it is abatable, and specifying the defects or things to be corrected to place the building in a safe condition, and to eliminate any condition producing such nuisance. If conditions are such that the defects or things cannot be corrected, eliminated or abated, the owner shall be ordered and required to demolish the building as provided by any applicable statute or by this Code. The notice shall provide and name a reasonable time within which the nuisance shall be abated or the building demolished.

(c) Upon the failure of the person notified to obey the notice given pursuant to subsection (b), the division of ~~inspections~~ construction and business services, after the expiration of the time specified in the notice, shall cause a summons to be issued to the person requiring him or her to appear and show cause before the mayor, at a time and place named in the notice, why the nuisance should not be ordered to be summarily abated or, in event the alleged nuisance cannot be abated, why the building should not be demolished. If, upon a hearing of the case, to be conducted under the procedure for the revocation of licenses, the mayor determines that the building cannot be repaired or put in a safe condition, he or she shall render a decision and order that the building be demolished by the defendant within a time specified and, upon failure of the defendant to demolish it, the demolition shall be done by the city, or by a contractor in its behalf, at the expense of the defendant as provided by the statute thereon. In the event the mayor, upon such hearing, shall find that the building constitutes a nuisance, but that the nuisance can be abated by doing certain things to the building, such as repairs, changes, alterations or renovation, the mayor shall provide in his or her order how and in what manner the nuisance may be abated, and shall designate the time within which such acts must be begun and completed. In such case, the order shall further provide that if the defendant fails to begin compliance with such order within the time specified, notices shall be placed at all the entrances of the building, stating in substance that the premises therein have been condemned and declared to be a nuisance and unsafe and shall not be further used by any person. All the entrances to the premises upon the sidewalk, street or alley shall be blocked off by barriers or guardrails and may be securely locked. In the event of an appeal to a court being taken from the mayor's order, pending such appeal or other legal action, the division of ~~inspections~~ construction and business services shall cause to be erected on the street or sidewalk adjacent to the entrances of the building signs stating that the building has been declared to be dangerous and unsafe and a public nuisance. Such signs shall not be removed or defaced by any person and shall remain until such appeal or other legal action is finally decided.

#### **Sec. 391-206. Collection of cost of abatement.**

Where any person who is ordered to do any work or other thing for the purpose of abating a nuisance has failed or refused to do the work or other thing, and the same has been done by or for the city, the cost thereof may be collected by a special assessment against the person and his property, or by any other appropriate action. Each such order of assessment shall be prepared by the department or official charged with the duty of abating the nuisance, shall be signed by the head of the department and shall be delivered to the assessment ~~bureau~~ division for entry of record and collection in the same manner that improvement assessments and liens are collected, and any actions required thereon shall be filed by the division of law.

#### **Sec. 391-302. Unlawful noises.**

(a) For purposes of this chapter, unreasonable noise shall mean sound that is of a volume, frequency, or pattern that prohibits, disrupts, injures, or endangers the health, safety, welfare, prosperity, comfort, or repose of reasonable persons of ordinary sensitivities within the city, given the time of day and environment in which the sound is made.

(b) Except as otherwise provided in this section, it shall be unlawful for any person to make, continue, or cause to be made or continued any unreasonable noise.

(c) In addition to the foregoing, any person who performs any of the acts enumerated in this subsection, or who causes or allows the performance of any of such acts in or upon any property owned, occupied, or controlled by him, shall be in violation of this section.

- (1) Horns and signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle in any public street or public place of the city, in a manner that makes unreasonable noise and continuing to do so after being asked to stop.
- (2) Machines and devices for producing sound. Playing, using, or operating, or permitting to be played, used, or operated, any radio, television, digital media player, loudspeaker, sound amplifier, musical instrument, or any machine or device for producing or reproducing sound in a manner that makes unreasonable noise and continuing to do so after being asked to stop, except when a permit granted therefor for some special occasion is in effect. The operation of any such machine or device in a manner that produces sound plainly audible to a person with normal hearing:
  - a. From any place other than the property on which the sound source is located when the machine or device is being operated between the hours of 10:00 p.m. and 7:00 a.m.;
  - b. From a distance greater than seventy-five (75) feet from the sound source of the machine or device when it is located in any public street or public place of the city; or
  - c. In any public conveyance other than a taxicab or jitney, except for a person who is voluntarily listening to the machine or device through earplugs; shall be prima facie evidence of a violation of this subsection, except when a permit granted therefor for some special occasion is in effect.
- (3) Yelling or shouting. Yelling, shouting, hooting, whistling, or singing in any public street or public place of the city in a manner that makes unreasonable noise and continuing to do so after being asked to stop, except when a permit granted therefor for some special occasion is in effect.
- (4) Animals or birds. The keeping of any animal or bird that makes unreasonable noise and the failure to prevent the continuation of the unreasonable noise after being asked to do so.
- (5) Steam whistles. The blowing of any locomotive steam whistle, or steam whistle attached to any stationary boiler, or one (1) operated by any other means, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of the proper city authorities, in a manner that makes unreasonable noise and continuing to do so after being asked to stop, except when a permit granted therefor for some special occasion is in effect. The blowing of any such whistle between the hours of 10:00 p.m. and 7:00 a.m. in a manner that makes sound plainly audible to a person with normal hearing from any place other than the property on which the sound source is located shall be prima facie evidence of a violation of this subsection, except when a permit granted therefor for some special occasion is in effect.
- (6) Exhausts blowers, engines, and motors. The operation or use of any engine, motor, power unit on a motorboat, motor vehicle, motorcycle, or other vehicle or craft of any kind, blower or power fan in a manner that makes unreasonable noise and continuing to do so after being asked to stop, except when a permit granted therefor for some special occasion is in effect; or operation or possession in any public street or public place of the city of any motor vehicle, motorcycle, or other machine powered by an engine or motor equipped with straight pipes, baffles, muffler cutouts, bypasses, an expansion chamber, or any exhaust system constructed or capable of being operated so that the exhaust bypasses the muffler or noise-reducing device, except when a permit granted therefor for some special occasion is in effect. Operation or possession of any engine, motor, power unit, blower, or power fan not equipped with a muffler or other noise-reducing device that complies with applicable federal, state, and local standards:
  - a. In any public street or public place of the city between the hours of 10:00 p.m. and 7:00 a.m.; or
  - b. Between the hours of 10:00 p.m. and 7:00 a.m. in a manner that makes sound plainly audible to a person with normal hearing from any place other than the property on which the sound source is located, shall be prima facie evidence of a violation of this subsection. This subsection shall not apply to persons who are entrants or participants in a scheduled race or sporting event that involves the use of racing motor vehicles or equipment while involved in such activities, nor to owners or operators of equipment or devices used in the construction, demolition, or similar labor or maintenance trades.
- (7) Defect in vehicle or load. The use of any automobile, motorcycle, or other vehicle so out of repair, or so loaded, or in such manner as to create unreasonable grating, grinding, rattling, or other noise and continuing to do so after being asked to stop.
- (8) Loading, unloading, opening boxes. The loading or unloading of any vehicle, or the opening or destruction of bales, boxes, crates, or containers in a manner that makes unreasonable noise and continuing to do so after being asked to stop. The emptying, pickup, or delivery of any trash container exceeding six (6) cubic feet

between the hours of 10:00 p.m. and 7:00 a.m. in a manner that makes sound plainly audible to a person with normal hearing from any place other than the property on which the trash container is located, shall be prima facie evidence of a violation of this subsection.

- (9) Construction or repairing of buildings. The erection, demolition, alteration, or repair of any building, or the excavation therefor between the hours of 7:00 p.m. and 7:00 a.m., except:
- a. In the case of urgent necessity in the interest of public health and safety, and then only with a permit from the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services, which permit may be granted for a period not to exceed three (3) days while the emergency continues and which permit may be renewed for periods of three (3) days while the emergency continues; or
  - b. If the ~~bureau of license and permit services~~ division of construction and business services determines that the public health and safety will not be impaired by sound made by such work between the hours of 7:00 p.m. and 7:00 a.m., and that loss or inconvenience would result to any party in interest, and the ~~bureau~~ division grants permission for such work to be done between the hours of 7:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is issued or during the progress of the work.
- (10) Schools, courts, churches, hospitals. The making of noise that is plainly audible to a person with normal hearing above normal ambient noise levels at a distance of fifty (50) feet from the source of the noise on any street adjacent to any school, institution of learning, church, court, or hospital while it is in use, provided that conspicuous signs are displayed in such streets indicating that the area is a school, hospital, or other such quiet zone, shall be prima facie evidence of a violation of this section, except when a permit granted therefor for some special occasion is in effect.
- (11) Transporting metal rails, pillars, and columns. The transportation of rails, pillars, or columns of iron, steel, or other material over and along any public street or other public place of the city, upon carts, drays, cars, or trucks in any manner that makes unreasonable noise and continuing to do so after being asked to stop.
- (12) Railway cars, buses. Causing or permitting unreasonable noise in the operation of a bus or railway car by reason of defective conditions therein or of its tracks and continuing to do so after being asked to stop.
- (13) Pile drivers, hammers. The operation between the hours of 7:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, except:
- a. When being operated by a public utility in connection with emergency repairs of such utility; or
  - b. If the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services determines that the public health and safety will not be impaired by sound made by such operation between the hours of 7:00 p.m. and 7:00 a.m., and that loss or inconvenience would result to any party in interest, and the ~~bureau~~ division grants permission for such operation between the hours of 7:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is issued or during the progress of the work.
- (14) Vendor's vehicle. Using, operating or playing, or permitting to be used, operated, or played, any bell, radio, musical instrument, loudspeaker, sound amplifier, or other machine or device for producing or reproducing sound in or upon any vehicle used for the transportation and sale of any goods, wares or merchandise in any public street or public place of the city, which equipment is set to produce any noise, music, or sound in excess of one hundred fifteen (115) decibels, measured at six (6) inches from the sound-producing amplifier of the speaker; the use or operation of any vehicle so equipped, with such sound-producing equipment in operation, between the hours of 10:00 p.m. and 10:00 a.m., in any public street or public place; or the operation of such sound-producing equipment on any vehicle moving along or upon any public street or public place.

(d) The first violation in any twelve-month period shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103 of this Code. All second and subsequent violations in any twelve-month period are subject to the enforcement procedures and penalties provided in section 103-3 of this Code, and the fine imposed for a second violation in any twelve-month period shall not be less than two hundred fifty dollars (\$250.00), and the fine for any subsequent violation in any twelve (12) month period shall not be less than five hundred dollars (\$500.00).

Chapter 537 - VACANT BUILDING STANDARDS

**Sec. 537-1. Definitions.**

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section.

*Accessory structure* means a detached building or structure in a secondary or subordinate capacity from the main or principal building or structure on the same premises.

*Appropriate fill material* means material that can be properly compacted when used as fill. The fill that is placed from grade to a depth of twelve (12) inches shall consist of at least eighty (80) percent soil base material and have no stones or rocks larger than four (4) inches in any dimension.

~~*Bureau of property safety and maintenance services or bureau* means the bureau of property safety and maintenance services of the department of code enforcement. The bureau of property safety and maintenance services is the "enforcement authority" as defined in IC 36-7-9-2.~~

*Chimney* means a vertical masonry shaft of reinforced concrete or other approved noncombustible, heat-resisting material enclosing one (1) or more flues for the purpose of removing products of combustion from solid, liquid or gaseous fuel.

~~*Division of property and land use services or division* means the division of property and land use services of the department of business and neighborhood services. The division of property and land use services is the "enforcement authority" as defined in IC36-7-9-2.~~

*Garbage* means the animal and vegetable waste resulting from the handling, preparation, cooking, serving and nonconsumption of food.

*Grade* means finished ground level.

*Health and hospital corporation* means the Health and Hospital Corporation of Marion County, Indiana.

*Junk vehicle* means any vehicle that is no longer licensed or that does not display a current license, from which any part material to the operation of the vehicle has been removed, or that is inoperable for any reason.

*Lead-based paint* means any paint containing more lead than the level established by the U.S. Consumer Product Safety Commission as being the "safe" level of lead in residential paint and paint products.

*Mosquito harborage* means any condition or place that promotes the breeding or infestation of mosquitoes.

*Owner* means any one (1) or more of the following:

- (1) The holder or holders of a fee simple or life estate interest in a parcel of real property;
- (2) The record owner or owners as reflected by the county recorder's office;
- (3) The purchaser or purchasers of such real estate under any contract for the conditional sale thereof; or
- (4) The estate of a decedent, receiver, guardian or custodian, or the corpus of a trust, but not the personal representative or fiduciary of such estate or trust.
- (5) Any mortgagee that has filed a complaint for foreclosure on a structure that is now vacant or abandoned, until title to the premises is transferred to a third party or the complaint is dismissed, within the constraints prescribed in IC 32-30-10.3 and IC 34-30-26.

*Premises* means a platted lot or part thereof or unplatted lot or parcel of land on which is located a structure and includes any such structure, accessory structure, adjoining alley, easement or drainage way.

*Refuse* means all putrescible and nonputrescible solids including garbage, rubbish, ashes and dead animals.

*Sound condition and good repair* means the structure or portion thereof is suitable for use in the manner intended and maintained free of defects and deterioration.

*Structure* means any manmade construction built up or composed of parts formed together in some definite pattern, such as a building, fence, swimming pool or sign.

*Rat harborage* means any conditions or place where rats can live, nest or seek shelter.

*Rubbish* means nonputrescible solid wastes consisting of either:

- (1) Combustible wastes such as paper, cardboard, plastic containers and wood; or
- (2) Noncombustible wastes such as tin cans and crockery.

*Tree*, when used by itself, means any woody, perennial plant and includes those having a single main stem that grows to a minimum height of over ten (10) feet.

*Vacant* means currently unoccupied or occupied by vagrants, squatters, trespassers or other persons having no legal right to occupy.

*Weeds* means vegetation that has attained a height of twelve (12) inches or more and that constitutes a potential rat harborage or other health or safety hazard.

**Sec. 537-5. Scope.**

These standards shall apply to the maintenance, repair and boarding of vacant structures located in the county. These standards shall in no way limit the types of action the ~~bureau of property safety and maintenance services~~ division of property and land use services is authorized to take under IC 36-7-9-1 et seq. relative to the exterior of unsafe buildings, the interior of unsafe buildings, or the premises on which unsafe buildings are located.

**Sec. 537-7. Remedial action.**

Orders or portions of orders issued by the ~~bureau~~ division under IC 36-7-9-6 requiring an owner to bring his or her property into compliance with these standards shall be complied with by the time specified in the order, or as extended by the hearing authority acting under IC 36-7-9-7. However, an order, other than an order requiring immediate boarding, shall provide the owner at least thirty-three (33) days from the mailing of the order to comply or to prepare for an administrative hearing.

**Sec. 537-41. Boarding standards.**

The following standards apply to the boarding of buildings as ordered under IC 36-7-9-5(a)(8):

- (1) If ordered to seal a building, the owner shall comply with the standards set forth in this section.
- (2) The owner shall comply with all exterior maintenance standards contained in Article II of these standards.
- (3) All openings of a building shall be closed. Openings that are more than one (1) square foot in area and located less than twenty (20) feet above the ground or that are accessible from a part of the building such as a fire escape or other means of access shall be secured by the following means:
  - a. Plywood or oriented strand board, covered with a weatherproofing substance such as exterior paint or varnish, similar in color to the exterior of the building and cut to the inside dimension of the exterior of the opening, shall be placed in all openings in such a way that no portion of the plywood extends outside the existing frame. The plywood shall be placed against any existing exterior window slide trim or a furring strip. If there is no slide trim or furring strip, an equivalent block shall be installed. The slide trim, furring strip or block shall be sufficient to prevent the plywood from being pushed inward. The plywood or oriented strand board shall be affixed to the exterior frame by use of two and three-quarters-inch or longer ring nails spaced a maximum of eight (8) inches apart.
  - b. Where the inside dimension of the opening exceeds twenty-six (26) square feet in area, additional exterior support shall be provided by placing continuous pieces of nominal two-inch by four-inch framing grade lumber on the outside of the plywood in such a manner that every carriage bolt used in the opening passes through and joins such a piece of nominal two-inch by four-inch lumber, the plywood and the interior brace. The round head of the bolt shall be on the outside of such pieces of nominal two-inch by four-inch lumber that gives exterior support. The pieces of nominal two-inch by

four-inch framing grade lumber shall be covered with a weatherproofing substance such as exterior paint or varnish, similar in color to the exterior of the building.

- c. In case of a ground level door that is most exposed to view from a public street, the following method of securing shall be used: The door shall be placed in good repair including, but not limited to, closing any openings in the door, repairing hinges on the door and providing for an adequate closure to the opening; and the door shall be locked by the use of not less than two (2) hasp locks and padlocks to be located equidistant from the top and bottom casing and each other. If no door exists, or if it is impractical to repair the existing door, the opening shall be secured in the manner described in this subsection, substituting, however, a piece of plywood for the door.
- (4) Any opening that is less than one (1) square foot in area or that is both more than twenty (20) feet above the ground and not accessible from a part of the building shall be covered so as to prevent entry of birds, rats or other animals and shall be made weathertight. The covering shall be painted in a color similar to the exterior of the building.
- (5) The materials used to secure the openings of a building pursuant to these standards shall meet the following specifications:
  - a. Plywood or oriented strand board: no less than one-half-inch exterior grade;
  - b. Braces: no less than nominal two-inch by four-inch framing grade lumber; and
  - c. Bolts: no less than three-eighths-inch carriage bolts.
- (6) The ~~bureau of property safety and maintenance~~ division of property and land use services may allow the use of other materials and methods of securing openings, including the use of existing doors, if it is shown that, as related to the particular circumstances, the objectives of these standards would be met by the use of such materials and methods.

**Sec. 537-42. Immediate boarding.**

When an immediate hazard exists because a structure is open and accessible for unauthorized entry, the ~~bureau of property safety and maintenance~~ division of property and land use services, acting pursuant to IC 36-7-9-5(a)(2), may order the immediate boarding of the building. Such boarding shall be done in a manner described by the ~~bureau~~ division and shall be for a short time period. Such boarding shall not prevent the ~~bureau~~ division from taking further action requiring the owner to bring the property in compliance with these standards.

**Sec. 601-1. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section unless otherwise indicated clearly by text.

*Containerized collection* means all mechanized collection of solid waste from dumpsters by front-loading, rear-loading and roll-off vehicles.

~~*Bureau of license and permit services*~~ *Division of construction and business services* means the ~~bureau of license and permit services~~ division of construction and business services of the department of ~~code enforcement~~ business and neighborhood services.

*Dumpster* means a receptacle used to contain solid waste and designed for mechanical pickup and provided by a hauler for use by the customer.

*Garbage* means all putrescible animal solid, vegetable solid and semi-solid wastes resulting from the processing, handling, preparation, cooking, serving or consumption of food or food materials, excluding human excreta.

*Incinerator* means any apparatus to burn waste substances in which all the factors of combustion—temperature, retention time, turbulence and combustion air—can be controlled.

*Landfill* means a sanitary landfill.

*Multifamily residence* means a structure containing five (5) or more residential units, and does not include condominiums.



*Noncommercial vehicle* means a vehicle used for the purpose of transporting solid waste including, but not limited to, pickup trucks, cars, vans, dump trucks and U-hauls and shall not mean rear-loaders, front-loaders, roll-off trucks, roll-off containers or side-loaders.

*Processing* means the method, system or other treatment of solid wastes so as to change their chemical or physical form or affect it for disposal or recovery of material, but excluding vehicles for transportation or landfills.

*Recycling station* means a facility for the processing or storage of separated solid wastes prior to transportation to markets.

*Refuse* means all putrescible and nonputrescible solid and semi-solid wastes, except human excreta, but including ashes, street cleanings, offal and solid commercial, industrial and institutional wastes.

*Residential solid waste* means all refuse, garbage and rubbish generated by persons in noncommercial settings, and may include food wastes, paper, cardboard, bottles, metal cans, plastics, cloth, wood, tarp, Christmas trees, accumulations of leaves, grass or shrubbery cuttings and other refuse attending the care of lawns, shrubbery, vines, trees, and tree limbs. Residential solid waste shall not include discarded building materials, trees, brush and other vegetation resulting from the activities of building contractors, commercial tree trimmers or commercial lawn services, larger quantities of sod, dirt and trash from land clearing and other materials requiring special handling.

*Resource Recovery* means the buildings and equipment located at 2320 South Harding Street, Indianapolis, Indiana.

*Rubbish* means all nonputrescible solid wastes, such as cardboard, paper, plastic, metal or glass food containers, rags, waste metal, yard clippings, small pieces of wood, excelsior, rubbish, leather, crockery, and other waste materials that ordinarily accumulate around a home, business or industry.

*Salvaging* means the controlled removal of materials from solid wastes for utilization.

*Sanitary landfill* means an engineering method of disposing of refuse on land in a manner that protects the public health and environment by spreading the waste in thin layers, compacting it to the smallest practical volume, and covering it with compacted soil at the end of each working day.

*Single-family residence* means a condominium or a structure containing four (4) or less residential units, unless it is a component of multiple structures that together constitute an apartment complex.

*Solid waste* means all rubbish, garbage and refuse.

**Sec. 601-2. Deposit of waste materials on premises of another; enforcement.**

(a) It shall be unlawful for any person to deposit or place upon real estate owned by another any solid waste without the approval of the owner or lessee of such real estate.

(b) Whenever any person shall be charged with a violation of this section, it shall be a sufficient allegation of a prima facie offense to state that such person deposited the solid waste described in subsection (a) upon property of which he or she was not then the owner or lessee. It shall be a matter of affirmative defense for the person to show that he or she had permission of the owner or lessee to so deposit such solid waste, if such was the case.

(c) It shall be unlawful for a generator of solid waste to transfer such solid waste to any other person who subsequently disposes of it in violation of subsection (a). This subsection shall not apply to a generator who either transfers solid waste to a person licensed by the city at the time of transfer to haul solid waste or who sets out residential solid waste on a regularly scheduled collection day according to the rules and regulations for the preparation, set-out and collection of solid waste promulgated by the department of public works.

- (1) A person licensed by the city to haul solid waste who collects solid waste in a noncommercial vehicle shall provide a receipt for a transaction wherein he or she agrees to haul the solid waste of another, except as provided in subsection (c)(3). The licensed hauler collecting solid waste in a noncommercial vehicle shall affix to such receipt a sticker bearing his or her license number.

- (2) Stickers bearing the license number of a licensed hauler collecting solid waste in a noncommercial vehicle shall be made available through the ~~bureau of license and permit services~~ division of construction and business services.

- (3) A licensed hauler collecting solid waste in a noncommercial vehicle shall provide such a receipt for occasional or single transactions. A licensed hauler collecting solid waste in a noncommercial vehicle shall not be required to provide such receipts to customers receiving regularly scheduled services that are documented in the records of such hauler; provided, however, that a licensed hauler collecting solid waste in a noncommercial vehicle shall provide a receipt to a regular customer for a transaction outside the scope of regularly scheduled services.

(d) Any person who violates this section shall be punishable by a fine of not less than five hundred dollars (\$500.00) and an order for such persons to reimburse each appropriate city department for its reasonable costs incurred in correcting conditions caused by the violation. In addition, the court may order that the vehicle used in the unlawful dumping, owned by the person, be impounded for a period not to exceed ninety (90) days.

(e) Any person who violates this section by unlawfully dumping a hazardous waste as defined by the Indiana Environmental Management Act, IC 13-7-1-1 et seq. and the regulations thereunder or the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq. and the regulations thereunder, shall be punishable by a fine of not less than five hundred dollars (\$500.00) and order for its reasonable costs incurred in correcting conditions caused by the violation, and the court shall order that the vehicle used in the unlawful dumping, owned by the person, be impounded for a period of not less than ten (10) days and not greater than ninety (90) days.

(f) Enforcement of this chapter primarily shall be the responsibility of the ~~bureau of environmental services~~ division of property and land use services of the department of ~~code enforcement~~ business and neighborhood services. All monies recovered by the city from enforcement actions brought under this section, exclusive of court costs, shall be allocated to the department of ~~code enforcement~~ business and neighborhood services and shall be deemed a reimbursement to the department for its expenses in monitoring unlawful dumping and enforcing the provisions of this section.

**Sec. 601-6. Unlawful collection and transportation.**

(a) It shall be unlawful for any person not an employee of the city in pursuance of his or her duties as such, unless the person shall be so authorized by contract with or be licensed by the city, to take, collect or transport any solid wastes from any premises or upon the streets or alleys of this city for the purpose of selling or using such solid waste, or for anyone to deliver or deposit any of the materials generated within the city at any disposal site or location other than a disposal site provided or designated by the board of public works. Nothing in this subsection shall be construed as prohibiting the transportation or delivery of materials for salvaging, processing or recycling.

(b) The administrator as assigned by the deputy director of the ~~bureau of license and permit services~~ division of construction and business services may, using the procedures set forth in this Code, temporarily suspend or, upon repeated violations or a failure to correct a violation, revoke any license issued to collect, haul or transport, or dispose of solid wastes within the city for any violation of this chapter, Code, state law, or any rules or regulations promulgated pursuant to subsection (c) of this section. Failure to obey such suspension or revocation shall constitute a violation for which a fine up to two thousand five hundred dollars (\$2,500.00) per violation may be levied.

(c) The board of public works is authorized to promulgate such rules and regulations as may be required to carry out the intent of this section. Such rules and regulations shall be promulgated pursuant to the procedures set forth in Chapter 141 of this Code. A violation of such duly promulgated rules and regulations shall constitute a municipal violation, and any person so violating such rules and regulations shall be subject to the penalties provided in section 103-3 of this Code.

**Sec. 601-8. Sanitary landfills; license required, fee.**

(a) No open dumps shall be operated by any person or governmental agency inside the city, pursuant to IC 19-2-24-2, on or after January 1, 1968.

(b) Any facility operated by any person or governmental agency for handling solid wastes shall, after January 1, 1968, compost, incinerate or bury by sanitary landfill method approved by the board of public works, or other governmental entity with authority thereof.

(c) Anyone operating a facility for handling solid waste shall obtain a license therefor from the ~~bureau of license and permit services~~ division of construction and business services, after conforming to subsection (b) and upon payment of an annual fee provided in section 131-501 of the code.

**Sec. 875-104. Meetings of board.**

(a) The board shall hold regular meetings once each month in offices of the consolidated city if there is some official business to come before the board. Special meetings may be called by the chairman or any three (3) members upon giving written notice fixing the time and place of the meeting at least two (2) days in advance of the special meeting. Four (4) appointed members of the board shall constitute a quorum for the transaction of all business.

(b) At its annual meeting each January, the board shall promulgate written policies and regulations concerning the requirement that a contractor secure building permits stated in section 875-116.

(c) Such written policies and regulations shall be maintained and made available to the public through the offices of the ~~bureau of license and permit services~~ division of construction and business services.

**Sec. 875-107. Qualifications for person, partnership or corporation to be listed as contractor.**

A person, partnership or corporation shall be entitled to receive a listing as a contractor if the following requirements are met:

- (1) An application form indicating the name, address and legal business status of the contractor has been submitted to the ~~bureau of license and permit services~~ division of construction and business services;
- (2) The listing fee specified in section 875-701 of this Revised Code has been paid;
- (3) A surety bond meeting the requirements of section 875-109 has been posted and certificates of insurance meeting the requirements of section 875-110 have been submitted, unless these requirements are relieved because a person meets the inspector status requirement stated in section 875-108;
- (4) The person, partnership or corporation does not presently have a listing issued under this article currently suspended, nor has it had such a listing revoked within a period of the preceding three hundred sixty-five (365) days;
- (5) The partnership does not presently have a partner or the corporation does not presently have an officer who has a listing under this article currently suspended or who has had such a listing revoked within the preceding three hundred sixty-five (365) days;
- (6) The partnership does not presently have a partner or the corporation does not presently have an officer who, within the preceding three hundred sixty-five (365) days, served as a partner in a partnership or an officer in a corporation listed under this article at the time when actions related to policies or practices of the partnership or corporation occurred that provided a primary basis on which the listing of the partnership or corporation was revoked or suspended for more than one hundred eighty (180) days; and
- (7) The person, general partner of a partnership, or officer of a corporation attends an orientation presented or approved by the board that provides general knowledge of the provisions of chapters 536 and 875 pertaining to building standards and procedures within sixty (60) days of the listing approval by the board.

Unless these requirements are met a person, partnership or corporation shall not be entitled to receive a listing as a contractor. No prerequisites other than the six (6) listed in this section shall be

**Sec. 875-109. Bond.**

(a) Before a listing is issued by the ~~bureau of license and permit services~~ division of construction and business services to any person, partnership or corporation, the license administrator as assigned by the deputy director shall require the applicant to file a surety bond in the amount of ten thousand dollars (\$10,000.00). Such a bond shall be maintained in full force and effect for the full period of the listing. The bond shall set forth the name, phone number and address of the agent representing the bonding company and shall be:

- (1) Issued by a surety authorized to do business in Indiana;

- (2) Payable to the Consolidated City of Indianapolis or an unknown third party as obligee; and
- (3) Conditioned upon:
  - a. Compliance with requirements set forth in this chapter that must be met to retain listing and licensure;
  - b. Prompt payment of all fees owed the consolidated city as set forth in this chapter, and Chapters 561 and 645 ~~and 671~~ of this Code;
  - c. Prompt payment to the Consolidated City of Indianapolis for any loss or expense for damages to property of the Consolidated City of Indianapolis caused by any action of the contractor, his or her agents, employees, principals, subcontractors, materialmen or suppliers in violation of requirements of state statute, city regulation or this Revised Code, which requirements must be met to properly carry out construction, a land alteration (as defined in section 561-109 of this Code), ~~sewer work (as defined in section 671-2 of this Code),~~ driveway work (as defined in section 645-421 of this Code) or excavation work (as defined in section 645-431 of this Code) while engaged in any construction, land alteration, sewer work, driveway work or excavation work; and
  - d. Prompt payment to a person, partnership or corporation that is an unknown third party obligee for any:
    - 1. Losses arising out of violations;
    - 2. Expenses necessary to correct violations; and
    - 3. Court costs and attorney fees allowed by the court incurred in connection with the commencement and prosecution of a court action to recover such losses and expenses for violation of requirements of state statute, city regulation or this Revised Code, which requirements must be met to properly carry out construction, a land alteration, sewer work, driveway work, or excavation work on property of the unknown third party obligee, caused by any action of the contractor, his or her agents, employees, principals, subcontractors, materialmen or suppliers while engaged in any construction, land alteration, sewer work or driveway work. However, the surety is not responsible under the bond for losses or expenses arising out of negligent conduct or improper workmanship unless such conduct or improper workmanship violates requirements of state statute, city regulation or this Revised Code, which requirement must be met to properly carry out construction, a land alteration, sewer work, driveway work, or excavation work.

(b) The license administrator may accept in lieu of the surety bond a properly conditioned irrevocable letter of credit in the amount of ten thousand dollars (\$10,000.00) if the controller approves the obligor financial institution as being financially responsible and if the corporation counsel approves the letter of credit as affording the same protections to the City of Indianapolis and an unknown third party as the protections afforded by the surety bond.

(c) The obligation of the surety and financial institution relative to this bond or letter of credit is limited to ten thousand dollars (\$10,000.00). A surety or financial institution may pay on the bond or disburse from the letter of credit to pay a claim in full at any time when that claim and pending claims (reflected by written notice to the surety or financial institution) together do not exceed the unpaid penalty of the bond or the undisbursed balance of the letter of credit. If written notice is received of claims that exceed the unpaid penalty of the bond or undisbursed balance of the letter of credit, the surety or financial institution shall pro-rate payment according to the amount of such claims.

#### **Sec. 875-110. Insurance.**

Insurance requirements are met if the person, partnership or corporation secures insurance covering all construction accomplished by the listed contractor or under permits obtained by the listed contractor, any land alteration (as defined in section 561-109 of this Code) accomplished by the listed contractor or under a permit obtained by the listed contractor, ~~all sewer work (as defined in section 671-2 of this Code) accomplished by the listed contractor or under a permit obtained by the listed contractor,~~ and all driveway work (as defined in section 645-421 of this Code) accomplished by the listed contractor or under a permit obtained by the listed contractor and thereafter maintains such insurance in full force and effect throughout the listing period:

- (1) A public liability and property damage insurance policy assuring the listed contractor and naming the Consolidated City of Indianapolis as an "additional assured," providing for the payment of any liability imposed by law on such listed contractor or the Consolidated City of Indianapolis arising out of operations being performed by or on behalf of the listed contractor in the minimum amounts of five hundred thousand

dollars (\$500,000.00) for combined bodily injury and property damage coverage of five hundred thousand dollars (\$500,000.00) for any occurrence relative to which there is injury or death to one (1) or more persons and one hundred thousand dollars (\$100,000.00) for any occurrence relative to which there is damage to property. A certificate of such policy shall be delivered to the license administrator; and

- (2) Workmen's compensation insurance covering the personnel employed for death or injury arising out of operations being performed by or on behalf of the listed contractor. A certificate of such insurance shall be delivered to the license administrator. This provision shall not apply if the listed contractor has no employees and gives appropriate notice to the license administrator.

The insurance carrier shall give notice both to the listed contractor and the ~~bureau of license and permit services~~ division of construction and business services at least fifteen (15) days before such insurance is either canceled or not renewed, and the certificate shall state this obligation.

#### **Sec. 875-111. Approval for listing.**

Approval of a person, partnership or corporation as a listed contractor shall be by the board or the license administrator acting on behalf of the board. Upon receipt of such approval the ~~bureau of license and permit services~~ division of construction and business services shall issue the listing. The listing shall be for a period from January 1 of any year ending in an odd number to December 31 of the following year. No listing shall be issued by the ~~bureau~~ division to any person, partnership or corporation except as provided in this article.

#### **Sec. 875-115. Hearing and appeal.**

(a) The date and place for a revocation or suspension hearing shall be fixed by the board. At least ten (10) days before such date a written copy of the charges, prepared by the consolidated city, and notice of the time and place of the hearing thereon shall be served upon the listed contractor, either by hand delivery to the charged listed person or to the partner of a charged listed partnership or officer of a charged listed corporation, or by certified mail with return receipt addressed to the listed contractor at its main place of business as shown by the listed contractor's application for listing. The ten (10) or more days shall run from the date such notice is mailed as shown by the postmark thereon.

(b) The listed contractor may appear in person or by counsel, produce evidence (including testimonial and documentary evidence), make argument and cross-examine witnesses at such hearing. The consolidated city shall have the same right. The board may cause or allow any other relevant evidence to be introduced. On the basis of the evidence presented at the hearing, the board shall make findings and enter an order in accordance with such findings, which shall not become effective until ten (10) days after notice and a copy thereof has been served upon the listed contractor, in the same manner required for notice of the hearing.

(c) On or before ten (10) days after service of such order, the listed contractor may appeal therefrom to the deputy director of the department of ~~code enforcement~~ business and neighborhood services, ~~division of administration, logistics, licenses and permits~~ construction and business services, by serving a notice of appeal upon the deputy director either in person or by filing it at his or her office, with a copy thereof delivered to the board at the office of the license administrator, who shall deliver such copy to the board. Unless such appeal is so taken, the order of the board shall be final.

(d) If so appealed, the order of the board shall be stayed until the appeal is heard and determined by the deputy director, under the procedure prescribed by statute for hearings on the suspension or revocation of licenses. The deputy director shall thereupon render such decision as he or she finds justified and sustained by the evidence, either affirming, reversing or modifying the terms of the order of the board. The deputy director's order shall be final and conclusive and be binding upon both the listed contractor and the board.

#### **Sec. 875-203. Board of electrical examiners.**

A board of electrical examiners (hereinafter in this article referred to as the "board") shall consist of eight (8) members and shall be responsible for carrying out the provisions of this article relative to licensure of electrical contractors. The license administrator as assigned by the deputy director of the division of construction and business services shall be a nonvoting member of the board, ex officio. The seven (7) voting members of the board shall be appointed by the mayor for two-year terms in such manner that three (3) terms expire on January first of one year and four (4) terms expire on January first of the next year. Five (5) of the seven (7) members appointed by the mayor shall be persons to whom a license has been issued in accordance with this article, and the two (2) remaining appointed members shall be persons (not licensed under this article) representing the public at large. Each of the appointed

members shall be a resident of the consolidated city. Members shall not receive compensation for serving on the board. Those members appointed by the mayor shall serve at his or her pleasure and shall hold no other elective or appointive office in the consolidated city.

**Sec. 875-204. Organization of board.**

(a) The board shall meet annually in each January on a date specified for regular monthly meetings in offices of the department of ~~code enforcement~~ business and neighborhood services and elect a chairman and any other officers, who shall serve one (1) year or until a successor is chosen, whichever is longer.

(b) At its annual meeting each January, the board shall promulgate written policies and regulations concerning the administration of the written examination stated in section 875-209 and of the equivalent examination stated in section 875-211.

(c) Such written policies and regulations shall be maintained and made available to the public through the offices of the ~~bureau of license and permit services~~ division of construction and business services.

**Sec. 875-214. Inspector status.**

The inspector status requirement of section 875-208(4) is met by a person who is employed full time by the division of ~~inspections~~ construction and business services in a position in which he or she makes or supervises the making of inspections to determine compliance with building standards and procedures relative to electricity, or this article of this chapter. Such a person shall not use a license as an electrical contractor other than with respect to his or her employment by the Consolidated City of Indianapolis. Licensure under this section terminates by operation of law when the person is no longer employed by the division of ~~inspections~~ construction and business services and does not meet the requirements of sections 875-216 and 875-217.

**Sec. 875-216. Bond.**

(a) Before a license is issued by the ~~bureau of license and permit services~~ division of construction and business services to any person, partnership or corporation, the license administrator shall require the applicant to file a surety bond in the amount of ten thousand dollars (\$10,000.00). Such a bond shall be maintained in full force and effect for the full period of the license. The bond shall set forth the name, phone number and address of the agent representing the bonding company and shall be:

- (1) Issued by a surety authorized to do business in Indiana;
- (2) Payable to the Consolidated City of Indianapolis or an unknown third party as obligee; and
- (3) Conditioned upon:
  - a. Compliance with requirements set forth in this chapter that must be met to retain licensure;
  - b. Prompt payment of all fees owed the consolidated city as set forth in this chapter;
  - c. Prompt payment to the Consolidated City of Indianapolis for any loss or expense for damages to property of the Consolidated City of Indianapolis caused by any action of the contractor, his or her agents, employees, principals, subcontractors, materialmen or suppliers in violation of building standards and procedures while engaged in any electrical work or any related construction; and
  - d. Prompt payment to a person, partnership or corporation that is an unknown third party obligee for any:
    1. Losses arising out of violations;
    2. Expenses necessary to correct violations; and
    3. Court costs and attorney fees allowed by the court incurred in connection with the commencement and prosecution of a court action to recover such losses and expenses for violations of building standards and procedures caused by any action of the contractor, his or her agents, employees, principals, subcontractors, materialmen or suppliers while engaged in electrical work or any related construction.

However, the surety is not responsible under the bond for losses or expenses arising out of negligent conduct or improper workmanship unless such conduct or workmanship violates requirements of building standards and procedures.

(b) The license administrator may accept in lieu of the surety bond a properly conditioned irrevocable letter of credit in the amount of ten thousand dollars (\$10,000.00) if the controller approves the obligor financial institution as being financially responsible and if the corporation counsel approves the letter of credit as affording the same protections to the City of Indianapolis and an unknown third party as the protections afforded by the surety bond.

(c) The obligation of the surety financial institution relative to this bond or letter of credit is limited to ten thousand dollars (\$10,000.00). A surety or financial institution may pay on the bond or disburse from the letter of credit to pay a claim in full at any time when that claim and pending claims (reflected by written notice to the surety or financial institution) together do not exceed the unpaid penalty of the bond or the undisbursed balance of the letter of credit. If written notice is received of claims that exceed the unpaid penalty of the bond or undisbursed balance of the letter of credit, the surety or financial institution shall pro-rate payment according to the amount of such claims.

#### **Sec. 875-217. Insurance.**

Insurance requirements are met if the person, partnership or corporation secures insurance covering all electrical work and related construction accomplished by the licensee or under permits obtained by the licensee and thereafter maintains such insurance in full force and effect throughout the license period:

- (1) A public liability and property damage insurance policy assuring the licensee and naming the Consolidated City of Indianapolis as an "additional assured," and providing also for the payment of any liability imposed by law on such licensee or the Consolidated City of Indianapolis arising out of operations being performed by or on behalf of the licensee in the minimum amounts of five hundred thousand dollars (\$500,000.00) for combined bodily injury and property damage coverage or five hundred thousand dollars (\$500,000.00) for any occurrence relative to which there is injury or death to one (1) or more persons and one hundred thousand dollars (\$100,000.00) for any occurrence relative to which there is damage to property. A certificate of such policy shall be delivered to the license administrator; and
- (2) Workmen's compensation insurance covering the personnel employed for death or injury arising out of operations being performed by or on behalf of the licensee. A certificate of such insurance shall be delivered to the license administrator. This provision shall not apply if the licensee has no employees and gives appropriate notice to the ~~bureau of license and permit services~~ division of construction and business services.

The insurance carrier shall give notice both to the licensee and the ~~bureau~~ division at least fifteen (15) days before such insurance is either canceled or not renewed, and the certificate shall state this obligation.

#### **Sec. 875-219. Board's approval for licensure.**

(a) Approval for licensure of a person, partnership or corporation as an electrical contractor shall be in writing signed by a majority of the board. The board may, however, by resolution agreed to by a majority of the board delegate to one (1) of its officers or the license administrator authority to approve applications for licensure or renewal of licensure on behalf of the board in instances where the applicant is a person whose eligibility for license renewal is established by section 875-212(1) or the applicant is a partnership or corporation.

(b) Prior to approval for licensure, a person, general partner of a partnership or officer of a corporation shall attend an orientation presented or approved by the board that provides general knowledge of the provisions of chapters 536 and 875 pertaining to building standards and procedures.

(c) Upon delivery of such approval an electrical contractor's license shall be issued by the ~~bureau of license and permit services~~ division of construction and business services. The licensure period shall be from January 1 of any year ending in an even number to December 31 of the following year. No license shall be issued by the ~~bureau~~ division to any person, partnership or corporation as an electrical contractor except as provided in this article.

#### **Sec. 875-221. Supervision by licensee.**

All electrical work shall be accomplished under the direction and control of either:

- (1) The licensed person who applied for the building permit;

- (2) If the building permit has been transferred, the licensed person who is the applicant representing the transferee of the building permit; or
- (3) If the applicant for the building permit no longer is able or desires to continue his or her responsibilities and obligations as the applicant and the obtainer of the building permit is a partnership that has a licensed person as a partner or a corporation that has a licensed person as an officer who meets the requirements imposed by section 536-202 of this Revised Code to apply for such a building permit in the first instance, such licensed partner or officer upon his or her notifying (using a form furnished by the ~~bureau of license and permit services~~ division of construction and business services) the license administrator of his or her assumption of the responsibilities and obligations of the applicant for the specified building permit.

The licensed person providing direction and control shall specify materials and work processes and supervise the person or persons accomplishing the electrical work.

**Sec. 875-223. License suspension, revocation or determination of ineligibility for renewal for a person.**

The board may, under section 875-225, suspend the license of a person for a period of up to seven hundred thirty (730) days, revoke the license of a person or determine on the basis of activities carried out while licensed that a person who is or has been licensed within the previous three hundred sixty-five (365) days is ineligible for license renewal, if one (1) of the following is shown:

- (1) The licensee made any materially false statement of fact either to the board or on his or her application for license or license renewal;
- (2) The licensee acted fraudulently in the license examination;
- (3) The licensee (but not including licensees who are exempt because of compliance with the requirements of section 875-213 or section 875-214) failed to post and maintain a surety bond and insurance required by section 875-216 or 875-217;
- (4) The licensee acted fraudulently, or with deceit, in his or her business relationship with other persons, partnerships or corporations with which he or she dealt in connection with electrical work;
- (5) Electrical work for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit was performed either incompetently or in such manner that it does not meet standards of reasonable workmanship or compliance with building standards and procedures;
- (6) The licensee failed to correct a violation of building standards and procedures relative to electrical work for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit, after the license administrator issued a notice of building code violation, revoked a building permit or issued a stop-work order and the violation(s) causing any of these actions remained uncorrected for a period of ten (10) days from the date of issuance of the notice of the building code violation, revocation of permit or stop-work order, or in the instance where a period of ten (10) days was not sufficient, such longer period of time as was fixed by the license administrator in writing;
- (7) The licensee has consistently failed to apply for or obtain required applicable permits for electrical work accomplished by the licensee or under his or her supervision;
- (8) The licensee has consistently failed to timely file certificates of completion and compliance for electrical work relative to which he or she was the applicant for the permits or applicant representing the transferee of the permits;
- (9) The licensee has consistently failed to give notice of availability for inspection at designated stages of electrical work as required by section 536-402 of this Revised Code;
- (10) The licensee, excluding licensees who meet the inspector status requirement of section 875-214, has not for a period of five (5) continuous years accomplished or supervised the accomplishment of a significant amount of electrical work;
- (11) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-216 and 875-217 by meeting the inspector status requirements of section 875-214, but is no longer employed by



the division of ~~inspections~~ construction and business services and does not meet the requirements of sections 875-216 and 875-217;

- (12) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-216 and 875-217 by meeting the partnership or corporate agent requirements of section 875-213 but, without presently meeting the requirements of sections 875-216 and 875-217, either he or she:
  - a. Is no longer a partner or employee of a partnership or an officer or employee of a corporation licensed under this article; or
  - b. Has made use of his or her license other than as an agent of the partnership or corporation named in his or her application;
- (13) The licensee has not properly paid the fee specified by section 875-701 of this Revised Code for a license that has been issued or is delinquent in the payment of fees owed pursuant to this chapter;
- (14) The licensee has failed to give proper supervision to electrical work in accordance with the requirements of section 875-221; or
- (15) The licensee has attempted to conceal or has concealed violations of building standards and procedures.

**Sec. 875-225. - Hearing and appeal.**

(a) The date and place for a revocation or suspension hearing shall be fixed by the board. At least ten (10) days before such date, a written notice of the general nature of the charges, prepared by the ~~bureau of license and permit services~~ division of construction and business services, and of the time and place of the hearing thereon shall be served upon the licensee, either by hand delivery to the charged licensed person or to a partner of a charged partnership or officer of a charged corporation, or by certified mail with return receipt requested addressed to the licensee at his or her main place of business as shown by the licensee's application for license or license renewal. The ten (10) or more days shall run from the date such notice is mailed. In the instance where charges are made that have a similar factual basis and a business relationship exists (as, for example, charges against two (2) licensed partners or charges against a licensed corporation and its licensed corporate officer), the board may hear evidence relative to two (2) or more charges at the same hearing.

(b) The licensee may appear in person or by counsel, produce evidence (including testimonial and documentary evidence), make argument and cross-examine witnesses at such hearing. The ~~bureau of license and permit services~~ division of construction and business services shall have the same right. The board may cause or allow any other relevant evidence to be introduced. On the basis of evidence presented at the hearing, the board shall make findings and enter an order in accordance with such findings, which shall not become effective until ten (10) days after notice and a copy thereof has been served upon the licensee, in the manner required for notice of the hearing.

(c) On or before ten (10) days after service of such order, the licensee may appeal therefrom to the deputy director of the department of ~~code enforcement~~ business and neighborhood services, division of ~~administration, logistics, licenses and permits~~ construction and business services, by serving a notice of appeal upon the deputy director either in person or by filing it at his or her office, with a copy thereof delivered to the board at the office of the license administrator, who shall deliver such copy to the board. Unless such appeal is so taken, the order of the board shall be final.

(d) If so appealed, the order of the board shall be stayed until the appeal is heard and determined by the deputy director or a representative designated in writing (but not an employee of the ~~bureau of license and permit services~~ division of construction and business services) by the deputy director, under the procedure prescribed by statute for hearings on the suspension or revocation of licenses. The deputy director or his or her representative shall thereupon render such decisions as he or she finds justified and sustained by the evidence, either affirming, reversing or modifying the terms of the order of the board. The order of the deputy director or his or her representative shall be final and conclusive and be binding upon both the licensee and the board.

**Sec. 875-303. Organization of board.**

(a) The board shall meet annually in each January on a date specified for regular monthly meetings in offices of the department of ~~code enforcement~~ business and neighborhood services and elect a chairman and any other officers, who shall serve one (1) year or until a successor is chosen, whichever is longer. At its annual meeting each

January, the board shall promulgate written policies and regulations concerning the administration of the written examination stated in section 875-308 and of the equivalent examination stated in section 875-310.

(b) Such written policies and regulations shall be maintained and made available to the public through the offices of the ~~bureau of license and permit services~~ division of construction and business services.

**Sec. 875-313. Inspector status.**

The inspector status requirement of section 875-307(4) is met by a person who is employed full time by the division of ~~inspections~~ construction and business services in a position in which he or she makes or supervises the making of inspections to determine compliance with building standards and procedures relating to heating and cooling work, or this article of this chapter. Such a person shall not use a license as a heating and cooling contractor other than with respect to his or her employment by the Consolidated City of Indianapolis. Licensure under this section terminates by operation of law when the person is no longer employed by the division of ~~inspections~~ construction and business services and does not meet the requirements of sections 875-315 and 875-316.

**Sec. 875-315. Bond.**

(a) Before a license is issued by the ~~bureau of license and permit services~~ division of construction and business services to any person, partnership or corporation, the license administrator shall require the applicant to file a surety in the amount of five thousand dollars (\$5,000.00). Such a bond shall be maintained in full force and effect for the full period of the license. The bond shall set forth the name, phone number and address of the agent representing the bonding company and shall be:

- (1) Issued by a surety authorized to do business in Indiana;
- (2) Payable to the Consolidated City of Indianapolis or an unknown third party as obligee; and
- (3) Conditioned upon:
  - a. Compliance with requirements set forth in this chapter that must be met to retain licensure;
  - b. Prompt payment of all fees owed the consolidated city as set forth in this chapter;
  - c. Prompt payment to the Consolidated City of Indianapolis for any loss or expense for damages to property of the Consolidated City of Indianapolis caused by any action of the contractor, his or her agent, employees, principals, subcontractors, materialmen or suppliers in violation of building standards and procedures while engaged in any heating and cooling work or any related construction; and
  - d. Prompt payment to a person, partnership or corporation that is an unknown third party obligee for any:
    1. Losses arising out of violations;
    2. Expenses necessary to correct violations; and
    3. Court costs and attorney fees allowed by the court incurred in connection with the commencement and prosecution of a court action to recover such losses and expenses for violations of building standards and procedures caused by any action of the contractor, his or her agents, employees, principals, subcontractors, materialmen or suppliers while engaged in heating and cooling work or any related construction.

However, the surety is not responsible under the bond for losses or expenses arising out of negligent conduct or improper workmanship unless such conduct or workmanship violates requirements of building standards and procedures.

(b) The license administrator may accept in lieu of the surety bond a properly conditioned irrevocable letter of credit in the amount of five thousand dollars (\$5,000.00) if the controller approves the obligor financial institution as being financially responsible and if the corporation counsel approves the letter of credit as affording the same protections to the City of Indianapolis and an unknown third party as the protections afforded by the surety bond.

(c) The obligation of the surety and financial institution relative to this bond or letter of credit is limited to five thousand dollars (\$5,000.00). A surety or financial institution may pay on the bond or disburse from the letter of credit to pay a claim in full at any time when that claim and pending claims (reflected by written notice to the

surety or financial institution) together do not exceed the unpaid penalty of the bond or the undisbursed balance of the letter of credit. If written notice is received of claims that exceed the unpaid penalty of the bond or undisbursed balance of the letter of credit, the surety or financial institution shall pro-rate payment according to the amount of such claims.

**Sec. 875-316. Insurance.**

The insurance requirements are met if the person, partnership or corporation secures insurance covering all heating and cooling work and any related construction accomplished by the licensee or under permits obtained by the licensee and thereafter maintains such insurance in full force and effect throughout the license period:

- (1) A public liability and property damage insurance policy assuring the licensee and naming the Consolidated City of Indianapolis as an "additional assured," and providing also for the payment of any liability imposed by law on such licensee or the Consolidated City of Indianapolis arising out of operations being performed by or on behalf of the licensee in the minimum amounts of five hundred thousand dollars (\$500,000.00) for combined bodily injury and property damage coverage of five hundred thousand dollars (\$500,000.00) for any occurrence relative to which there is injury or death to one (1) or more persons and one hundred thousand dollars (\$100,000.00) for any occurrence relative to which there is damage to property. A certificate of such policy shall be delivered to the license administrator; and
- (2) Workmen's compensation insurance covering the personnel employed for death or injury arising out of operations being performed by or on behalf of the licensee. A certificate of such insurance shall be delivered to the license administrator. This provision shall not apply if the licensee has no employees and gives appropriate notice to the ~~bureau of license and permit services~~ division of construction and business services.

The insurance carrier shall give notice both to the licensee and the ~~bureau~~ division at least fifteen (15) days before such insurance is either canceled or not renewed, and the certificate shall state this obligation.

**Sec. 875-318. Board's approval for licensure.**

(a) Approval for licensure of a person, partnership or corporation as a heating and cooling contractor of the appropriate type shall be in writing signed by a majority of the board. The board may, however, by resolution agreed to by a majority of the board delegate to one (1) of its officers or the license administrator authority to approve applications for licensure or renewal of licensure on behalf of the board in instances where the applicant is a person whose eligibility for license renewal is established by section 875-311(1) or the applicant is a partnership or corporation.

(b) Prior to approval for licensure, a person, general partner of a partnership or officer of a corporation shall attend an orientation presented or approved by the board that provides general knowledge of the provisions of chapters 536 and 875 pertaining to building standards and procedures.

(c) Upon delivery of such approval a heating and cooling contractor's license of the appropriate type shall be issued by the ~~bureau of license and permit services~~ division of construction and business services. The licensure period shall be from January 1 of any year ending in an even number to December 31 of the following year. No license shall be issued by the ~~bureau~~ division to any person, partnership or corporation as a heating and cooling contractor except as provided in this article.

**Sec. 875-320. Supervision by licensee.**

- (a) All heating and cooling work shall be accomplished under the direction and control of either:
- (1) The licensed person who applied for the building permit;
  - (2) If the building permit has been transferred, the licensed person who is the applicant representing the transferee of the building permit; or
  - (3) If the applicant for the building permit no longer is able or desires to continue his or her responsibilities and obligations as the applicant and the obtainer of the building permit is a partnership that has a licensed person as a partner or a corporation that has a licensed person as an officer who meets the requirements imposed by section 536-202 of this Revised Code to apply for such a building permit in the first instance, such licensed partner or officer upon his or her notifying (using a form furnished by the office of the ~~bureau of license and permit services~~ division of construction and business services) the license administrator of his or her assumption of the responsibilities and obligations of the applicant for the specified building permit.

(b) The licensed person providing direction and control shall specify work processes and supervise the person or persons accomplishing the heating and cooling work. Such licensed person or a competent person responsible to him or her must be present at the site when any significant heating and cooling work occurs.

**Sec. 875-322. License suspension, revocation or determination of ineligibility for renewal for a person.**

The board may, under section 875-324, suspend the license of a person for a period of up to seven hundred thirty (730) days, revoke the license of a person, or determine on the basis of activities carried out while licensed that a person who is or has been licensed within the previous three hundred sixty-five (365) days is ineligible for license renewal, if one (1) of the following is shown:

- (1) The licensee made any materially false statement of fact either to the board or on his or her application for license or license renewal;
- (2) The licensee acted fraudulently in the license examination;
- (3) The licensee (but not including licensees who are exempt because of compliance with the requirements of section 875-312 or section 875-313) failed to post and maintain the surety bond and insurance required by sections 875-315 and 875-316;
- (4) The licensee acted fraudulently, or with deceit, in his or her relationship with other persons, partnerships or corporations with which he or she dealt in connection with heating and cooling work;
- (5) Heating and cooling work for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit was performed either incompetently or in such manner that it does not meet standards of reasonable workmanship or compliance with building standards and procedures;
- (6) The licensee failed to correct a violation of building standards and procedures relative to heating and cooling work for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit, after the license administrator issued notice of a building code violation, revoked a building permit or issued a stop-work order and the violation(s) causing any of these actions remained uncorrected for a period of ten (10) days from the date of issuance of the notice of the building code violation, revocation of permit or stop-work order, or in the instance where the period of ten (10) days was not sufficient, such longer period of time as was fixed by the license administrator in writing;
- (7) The licensee has consistently failed to apply for or obtain required applicable permits for heating and cooling work accomplished by the licensee or under his or her supervision;
- (8) The licensee has consistently failed to give notice of availability for inspection at designated stages of heating and cooling work as required by section 536-402 of this Revised Code;
- (9) The licensee has consistently failed to timely file certificates of completion and compliance for heating and cooling work relative to which he or she was the applicant for the permits;
- (10) The licensee, excluding licensees who meet the inspector status requirement of section 875-313, has not for a period of five (5) continuous years accomplished or supervised the accomplishment of a significant amount of heating and cooling work;
- (11) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-315 and 875-316 by meeting the inspector status requirements of section 875-222, but is no longer employed by the division of ~~inspections~~ construction and business services and does not meet the requirements of sections 875-315 and 875-316;
- (12) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-315 and 875-316 by meeting the partnership or corporate agent requirements of section 875-312, but without presently meeting the requirements of sections 875-315 and 875-316, either he or she:
  - a. Is no longer a partner or employee of a partnership or an officer or employee of a corporation licensed under this division; or

- b. Has made use of his or her license other than as an agent of the partnership or corporation named in his or her application;
- (13) The licensee has not properly paid the fee specified by section 875-701 of this Revised Code for a license that has been issued or is delinquent in other fees owed pursuant to this chapter;
- (14) The licensee has failed to give proper supervision to heating and cooling work in accordance with requirements of section 875-320;
- (15) The licensee holding a heating and cooling license other than an "air conditioning "A" (unrestricted)" license has accomplished (without supervision by a licensee of the appropriate type) or supervised the accomplishment of heating and cooling work without having the type license that is required for such construction; or
- (16) The licensee has attempted to conceal or has concealed violations of building standards and procedures.

**Sec. 875-324. Hearing and appeal.**

(a) The date and place for a revocation or suspension hearing shall be fixed by the board. At least ten (10) days before such date, a written notice of the general nature of the charges, prepared by the ~~bureau of license and permit services~~ division of construction and business services, and of the time and place of the hearing thereon shall be served upon the licensee, either by hand delivery to the charged licensed person or to a partner of a charged partnership or officer of a charged corporation or by certified mail with return receipt requested, addressed to the licensee at his or her main place of business as shown by the licensee's application for license or license renewal. The ten (10) or more days shall run from the date such notice is mailed. In the instance where charges are made that have a similar factual basis and a business relationship exists (as, for example, charges against two (2) licensed partners or charges against a licensed corporation and a licensed corporate officer), the board may hear evidence relative to two (2) or more charges at the same hearing.

(b) The licensee may appear in person or by counsel, produce evidence (including testimonial and documentary evidence), make argument and cross-examine witnesses at such hearing. The ~~bureau~~ division shall have the same right. The board may cause or allow any other relevant evidence to be introduced. On the basis of the evidence presented at the hearing, the board shall make findings and enter an order in accordance with such findings, which shall not become effective until ten (10) days after notice and a copy thereof has been served upon the licensee in the manner required for notice of the hearing.

(c) On or before ten (10) days after service of such order, the licensee may appeal therefrom to the deputy director of the department of ~~code enforcement~~ business and neighborhood services, division of ~~administration, logistics, licenses and permits~~ construction and business services, by serving a notice of appeal upon the deputy director either in person or by filing it at his or her office, with a copy thereof delivered to the board at the office of the license administrator, who shall deliver such copy to the board. Unless such appeal is so taken, the order of the board shall be final.

(d) If so appealed, the order of the board shall be stayed until the appeal is heard and determined by the deputy director or a representative designated in writing (but not an employee of the ~~bureau of license and permit services~~ division of construction and business services) by the deputy director, under the procedure prescribed by statute for hearings on the suspension or revocation of licenses. The deputy director or his or her representative shall thereupon render such decision as he or she finds justified and sustained by the evidence, either affirming, reversing or modifying the terms of the order of the board. The order of the deputy director or his or her representative shall be final and conclusive and be binding upon the licensee and the board.

**Sec. 875-401. License required.**

(a) Licensure as a wrecking contractor of the appropriate type is required to engage in the demolishing, dismantling, dismembering, razing or removing structures; provided, however, that licensure as a wrecking contractor is not required:

- (1) To wreck a one-story detached accessory structure containing less than five hundred seventy-seven (577) square feet of floor area that is located on the same premises as a one- or two-family residential structure or to wreck a structure containing less than five hundred (500) square feet of floor area;
- (2) To wreck a one-story, one- or two-family residential structure if:

- a. The wrecking is accomplished by the person who owns the structure;
  - b. The person is a previous occupant of the structure;
  - c. No part of the structure is located nearer than ten (10) feet to another structure not owned by the person accomplishing the wrecking or any street, alley or sidewalk;
  - d. The wrecking will not create a substantial potential health or safety hazard; and
  - e. If deemed reasonably necessary by the license administrator, the person who will accomplish the wrecking demonstrates that the wrecking activity is covered by a public liability and property damage insurance policy, in amounts established by the license administrator (but not less than fifty thousand dollars (\$50,000.00) for personal injury or death and twenty-five thousand dollars (\$25,000.00) for property damage), naming the person doing the wrecking and the Consolidated City of Indianapolis as the insured;
- (3) To wreck a one-story, wood-frame structure that is not a residential structure if:
- a. The wrecking is accomplished by the person who owns the structure or by permanent, full-time employees of the partnership or corporation that owns the structure;
  - b. The person, partnership or corporation that owns the premises where the structure is located is in possession of the premises where the structure is located;
  - c. No part of the structure is located nearer than ten (10) feet to another structure not owned by the person, partnership or corporation accomplishing the wrecking or any street, alley or sidewalk;
  - d. The wrecking will not create a substantial potential health or safety hazard; and
  - e. If deemed reasonably necessary by the license administrator, the person, partnership or corporation who will accomplish the wrecking demonstrates that the wrecking activity is covered by a public liability and property damage insurance policy in amounts established by the license administrator (but not less than fifty thousand dollars (\$50,000.00) for personal injury or death and twenty-five thousand dollars (\$25,000.00) for property damage), naming the person doing the wrecking and the Consolidated City of Indianapolis as the insured; or
- (4) To wreck or dismantle a structure or part of a structure if:
- a. The structure to be demolished or dismantled is a water storage tank, gas storage tank, or other structure that has some unique characteristic requiring specialized expertise beyond that of the typical licensed demolition contractor, or that the demolition or dismantling work involves some unique circumstance requiring such specialized expertise;
  - b. The person responsible for supervising the demolition or dismantling work demonstrates his or her familiarity with this chapter and Chapter 536 and his or her expertise and experience in demolishing or dismantling the type of structure or part of the structure to be demolished or dismantled;
  - c. The person, partnership or corporation submits proof of bond and insurance in the amounts required for the type license normally required to demolish or dismantle the structure or part of the structure and naming the person, partnership or corporation doing the demolition or dismantling work and the Consolidated City of Indianapolis as insured; and
  - d. The person, partnership or corporation is listed as a general contractor under article I of this chapter prior to obtaining any wrecking permits or accomplishing any demolition or dismantling work.

The determinations under this paragraph (4) are to be made by the board of wrecking examiners or an employee of the department of ~~code enforcement~~ business and neighborhood services designated by that board as qualified to make such determination. The board may appoint an alternate qualified employee for this designee.

(b) In determining whether to issue a permit for wrecking pursuant to paragraphs (1) through (3) above, the license administrator may consult with and seek the advice of the board of wrecking examiners.

(c) A determination by the license administrator under paragraphs (1) through (3) or by the board's designee under paragraph (4) not to allow the nonlicensed person to accomplish the work under this section may be appealed to the board of wrecking examiners for reconsideration.

(d) A person not licensed under this article who is employed by a licensed wrecking contractor may, however, accomplish wrecking while working under the direction and control of a person who is a licensed wrecking contractor. The scope of activity of such nonlicensed person shall not extend beyond that allowed by the license type of the licensed wrecking contractor providing direction and control over the nonlicensed person. Such nonlicensed person shall not enter into or offer to enter into a contractual relationship with a consumer to himself engage in wrecking.

(e) Construction that this article allows licensed wrecking contractors to carry out is hereafter referred to in this article as "wrecking."

**Sec. 875-403. Organization of board.**

(a) The board shall meet annually in each January on a date specified for regular monthly meetings in offices of the department of ~~code enforcement~~ business and neighborhood services and elect a chairman and any other officers, who shall serve one (1) year or until a successor is chosen, whichever is longer.

(b) At its annual meeting each January, the board shall promulgate written policies and regulations concerning the administration of the written examination stated in section 875-408.

(c) Such written policies and regulations shall be maintained and made available to the public through the offices of the ~~bureau of license and permit services~~ division of construction and business services.

**Sec. 875-413. Inspector status.**

The inspector status requirement of section 875-407(4) is met by a person who is employed full time by the division of ~~inspections~~ construction and business services in a position in which he or she makes or supervises the making of inspections to determine compliance with building standards and procedures relating to wrecking, Article II provisions or this article of this chapter. Such a person shall not use a license as a wrecking contractor other than with respect to his or her employment by the Consolidated City of Indianapolis. Licensure under this section terminates by operation of law when the person is no longer employed by the division of ~~inspections~~ construction and business services and does not meet the requirements of sections 875-415 and 875-416.

**Sec. 875-415. Bond.**

(a) Before a license is issued by the ~~bureau of license and permit services~~ division of construction and business services to any person, partnership or corporation, the license administrator of the division shall require the applicant to file a surety bond in the amount of thirty thousand dollars (\$30,000.00) in the case of a type A license, twenty thousand dollars (\$20,000.00) in the case of a type B license and ten thousand dollars (\$10,000.00) in the case of a type C license. Such a bond shall be maintained in full force and effect for the full period of the license. The bond shall set forth the name, phone number and address of the agent representing the bonding company and shall be:

- (1) Issued by a surety authorized to do business in Indiana;
- (2) Payable to the Consolidated City of Indianapolis or an unknown third party as obligee; and
- (3) Conditioned upon:
  - a. Compliance with requirements set forth in this chapter that must be met to retain licensure;
  - b. Prompt payment of all fees owed the consolidated city as set forth in this chapter;
  - c. Prompt payment to the Consolidated City of Indianapolis for any loss or expense for damages to property of the Consolidated City of Indianapolis caused by any action of the contractor, his or her agents or employees, principals, subcontractors, materialmen or suppliers in violation of building standards and procedures while engaged in any wrecking or any related construction; and
  - d. Prompt payment to a person, partnership or corporation that is an unknown third party obligee for any:
    1. Losses arising out of violation;
    2. Expenses necessary to correct violations; and
    3. Court costs and attorney fees allowed by the court incurred in connection with the commencement and prosecution of a court action to recover such losses and expenses for violations of building standards and procedures caused by any action of the contractor, his or her agents, employees, principals, subcontractors, materialmen or suppliers while engaged in wrecking or any related construction.

However, the surety is not responsible under the bond for losses or expenses arising out of negligent conduct or improper workmanship unless such conduct or workmanship violates requirements of building standards and procedures.

(b) The license administrator may accept in lieu of the surety bond a properly conditioned irrevocable letter of credit in the amount of thirty thousand dollars (\$30,000.00) in the case of a type A license, twenty thousand dollars (\$20,000.00) in the case of a type B license and ten thousand dollars (\$10,000.00) in the case of a type C license if the controller approves the obligor financial institution as being financially responsible and if the corporation counsel approves the letter of credit as affording the same protections to the City of Indianapolis and an unknown third party as the protections afforded by the surety bond.

(c) The obligation of the surety and financial institution relative to this bond or letter of credit is limited to thirty thousand dollars (\$30,000.00) in the case of a type A license, twenty thousand dollars (\$20,000.00) in the case of a type B license and ten thousand dollars (\$10,000.00) in the case of a type C license. A surety or financial institution may pay on the bond or disburse from the letter of credit to pay a claim in full at any time when that claim and pending claims (reflected by written notice to the surety or financial institution) together do not exceed the unpaid penalty of the bond or the undisbursed balance of the letter of credit. If written notice is received of claims that exceed the unpaid penalty of the bond or undisbursed balance of the letter of credit, the surety or financial institution shall prorate payment according to the amount of such claims.

**Sec. 875-416. Insurance.**

The insurance requirements are met if the person, partnership or corporation secures insurance covering all wrecking and related construction accomplished by the licensee or under permits obtained by the licensee and thereafter maintains such insurance in full force and effect throughout the license period:

- (1) A public liability and property damage insurance policy assuring the licensee and naming the Consolidated City of Indianapolis as an "additional assured," and providing also for the payment of any liability imposed by law on such licensee or the Consolidated City of Indianapolis arising out of operations being performed by or on behalf of the licensee in the minimum amounts of five hundred thousand dollars (\$500,000.00) for combined bodily injury and property damage coverage or five hundred thousand dollars (\$500,000.00) for any occurrence relative to which there is injury or death to one (1) or more persons, and one hundred thousand dollars (\$100,000.00) for any occurrence relative to which there is damage to property. A certificate of such policy shall be delivered to the license administrator; and
- (2) Workmen's compensation insurance covering the personnel employed for death or injury arising out of operations being performed by or on behalf of the licensee. A certificate of such insurance shall be delivered to the license administrator. This provision shall not apply if the licensee has no employees and gives appropriate notice to the ~~bureau of license and permit services~~ division of construction and business services.

The insurance carrier shall give notice both to the licensee and the ~~bureau~~ division at least fifteen (15) days before such insurance is either canceled or not renewed, and the certificate shall state this obligation.

**Sec. 875-418. Board's approval for licensure.**

(a) Approval for licensure of a person, partnership or corporation as a wrecking contractor of the appropriate type shall be in writing signed by a majority of the board. The board may, however, by resolution agreed to by a majority of the board delegate to one (1) of its officers or the license administrator authority to approve applications for licensure or renewal of licensure on behalf of the board in instances where the applicant is a person whose eligibility for license renewal is established by section 875-411(1) or the applicant is a partnership or corporation.

(b) Prior to approval for licensure, a person, general partner of a partnership or officer of a corporation shall attend an orientation presented or approved by the board that provides general knowledge of the provisions of chapters 536 and 875 pertaining to building standards and procedures.

(c) Upon delivery of such approval, a wrecking contractor's license of the appropriate type shall be issued by the ~~bureau of license and permit services~~ division of construction and business services. The license period shall be from January 1 of any year ending in an even number to December 31 of the following year.

(d) No license shall be issued by the ~~bureau~~ division to any person, partnership or corporation as a wrecking contractor except as provided in this section.

**Sec. 875-420. Supervision by licensee.**

- (a) All wrecking shall be accomplished under the direction and control of either:



- (1) The licensed person who applied for the building permit;
- (2) If the building permit has been transferred, the licensed person who is the applicant representing the transferee of the building permit; or
- (3) If the applicant for the building permit no longer is able or desires to continue his or her responsibilities and obligations as the applicant and the obtainer of the building permit is a partnership that has a licensed person as a partner or a corporation that has a licensed person as an officer who meets the requirements imposed by section 536-202 of this Revised Code to apply for such a building permit in the first instance, such licensed partner or officer upon his or her notifying (using a form furnished by the ~~bureau of license and permit services~~ division of construction and business services) the license administrator of his or her assumption of the responsibilities and obligations of the applicant for the specified building permit.

(b) The licensed person providing direction and control shall specify work processes and supervise the person or persons accomplishing the wrecking. Such licensed person or a competent person responsible to him or her must be present at the site when any significant wrecking occurs.

**Sec. 875-421. License suspension, revocation or determination of ineligibility for renewal for a person.**

The board may, under section 875-423, suspend the license of a person for a period of up to seven hundred thirty (730) days, revoke the license of a person, or determine on the basis of activities carried out while licensed that a person who is or has been licensed within the previous three hundred sixty-five (365) days is ineligible for license renewal, if one (1) of the following is shown:

- (1) The licensee made any materially false statement of fact either to the board or on his or her application for license renewal;
- (2) The licensee acted fraudulently in the license examination;
- (3) The licensee (but not including licensees who are exempt because of compliance with the requirements of section 875-412 or section 875-413) failed to post and maintain the surety bond and insurance required by sections 875-415 and 875-416;
- (4) The licensee acted fraudulently or with deceit in his or her relationship with other persons, partnerships or corporations with which he or she dealt in connection with wrecking;
- (5) Wrecking for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit was performed either incompetently or in such manner that it does not meet standards of reasonable workmanship or compliance with building standards and procedures;
- (6) The licensee failed to correct a violation of building standards and procedures relative to wrecking for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit, after the license administrator issued notice of a building code violation, revoked a building permit or issued a stop-work order and the violations(s) causing any of these actions remained uncorrected for a period of ten (10) days from the date of issuance of the notice of the building code violation, revocation of permit or stop-work order, or in the instance where a period of ten (10) days was not sufficient, such longer period of time as was fixed by the license administrator in writing;
- (7) The licensee has consistently failed to apply for or obtain required applicable permits for wrecking accomplished by the licensee or under his or her supervision;
- (8) The licensee has consistently failed to give notice of availability for inspection at designated stages of wrecking as required by section 536-402 of this Revised Code;
- (9) The licensee has consistently failed to timely file certificates of completion and compliance for wrecking relative to which he or she was the applicant for the permits or applicant representing the transferee of the permits;
- (10) The licensee, excluding licensees who meet the inspector status requirement of section 875-409, has not for a period of five (5) continuous years accomplished or supervised the accomplishment of a significant amount of wrecking;

- (11) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-415 and 875-416 by meeting the inspector status requirements of section 875-413, but is no longer employed by the division of ~~inspections~~ construction and business services and does not meet the requirements of sections 875-415 and 875-416;
- (12) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-415 and 875-416 by meeting the partnership or corporate agent requirements of section 875-408 but, without presently meeting the requirements of sections 875-415 and 875-416, either he or she:
  - a. Is no longer a partner or employee of a partnership or an officer or employee of a corporation licensed under this article; or
  - b. Has made use of his or her license other than as an agent of the partnership or corporation named in his or her application;
- (13) The licensee has not properly paid the fee specified by section 875-701 of this Revised Code for a license that has been issued or is delinquent in other fees owed pursuant to this chapter;
- (14) The licensee has failed to give proper supervision to wrecking in accordance with the requirements of section 875-420;
- (15) The licensee holding a type B or type C wrecking license has accomplished (without supervision by a licensee of the appropriate type) or supervised the accomplishment of wrecking without having the type license that is required for such construction; or
- (16) The licensee has attempted to conceal or has concealed violations of building standards and

**Sec. 875-423. Hearing and appeal.**

(a) The date and place for a revocation or suspension hearing shall be fixed by the board, and at least ten (10) days before such date a written notice of the general nature of the charges, prepared by the ~~bureau of license and permit services~~ division of construction and business services, and of the time and place of the hearing thereon shall be served upon the licensee, either by hand delivery to the charged person or to a partner of a charged partnership or officer of a charged corporation, or by certified mail with return receipt requested, addressed to the licensee at his or her main place of business as shown by the licensee's application for license or license renewal. The ten (10) or more days shall run from the date such notice is mailed. In the instance where charges are made that have a similar factual basis and a business relationship exists (as, for example, charges against two (2) licensed partners or charges against a licensed corporation and a licensed corporate officer), the board may hear evidence relative to two (2) or more charges at the same hearing.

(b) The licensee may appear in person or by counsel and produce evidence (including testimonial and documentary evidence), make argument and cross-examine witnesses at such hearing. The ~~bureau division~~ shall have the same right. The board may cause or allow any other relevant evidence to be introduced. On the basis of evidence presented at the hearing, the board shall make findings and enter an order in accordance with such findings, which shall not become effective until ten (10) days after notice and a copy thereof has been served upon the licensee, in the manner required for notice of the hearing.

(c) On or before ten (10) days after service of said order, the licensee may appeal therefrom to the deputy director of the department of ~~code enforcement business and neighborhood services, division of administration, logistics, licenses and permits~~ construction and business services, by serving a notice of appeal upon the deputy director either in person or by filing it at his or her office, with a copy thereof delivered to the board at the office of the license administrator, who shall deliver such copy to the board. Unless such appeal is so taken, the order of the board shall be final.

(d) If so appealed, the order of the board shall be stayed until the appeal is heard and determined by the deputy director or a representative designated in writing (but not an employee of the ~~bureau of license and permit services~~ division of construction and business services) by the deputy director, under the procedure prescribed by statute for hearings on the suspension or revocation of licenses. The deputy director or his or her representative shall thereupon render such decision as he or she finds justified and sustained by the evidence, either affirming, reversing or modifying the terms of the order of the board. The order of the deputy director or his or her representative shall be final and conclusive and be binding upon both the licensee and the board.

**Sec. 875-501. Registration.**

(a) Any person or corporation that is licensed by the Indiana Plumbing Commission as a plumbing contractor pursuant to Public Law 188 of the Acts of 1972, as amended, and that performs any work within the Consolidated City of Indianapolis that it is privileged to accomplish pursuant to such license shall register with the ~~bureau of license and permit services~~ division of construction and business services.

(b) Such registration shall be accomplished by paying a fee provided by section 875-701 and specified by section 131-501 of the code, and by furnishing the following information on a form supplied by the ~~bureau~~ division:

- (1) Name of business;
- (2) Legal status (whether sole proprietor, member of partnership or corporation);
- (3) Address of business;
- (4) The identification number of the license issued by the Indiana Plumbing Commission; and
- (5) In the instance of a corporation that is a licensed plumbing contractor, the name of all corporate officers or employees who hold a plumbing contractor's license and are authorized by the corporation to obtain building permits on behalf of the corporation for construction relative to which state licensure as a plumbing contractor is required.

(c) Such registration shall be for a two-year period, beginning on January 1 of any year ending in an even number and expiring on December 31 of the following year.

(d) Such registration shall terminate during the period of registration at such time as the person or corporation is not licensed by the Indiana Plumbing Commission as a plumbing contractor.

Chapter 996 - PUBLIC VEHICLES FOR HIRE

**Sec. 996-33. Post-licensure inspection of operator.**

At least two (2) times each year on a schedule or at such unannounced times as determined by the license administrator ~~as assigned by the deputy director of~~ the division of inspections construction and business services shall inspect each licensed operator for compliance with section 996-124 and other requirements of this chapter.

**Sec. 996-49. Pre-licensure inspection of vehicle.**

The division of inspections construction and business services shall inspect the vehicle for compliance with the motor vehicle equipment requirements of IC 9-19 and section 996-123 of the Code.  
At least two (2) times each year, on a schedule or at such unannounced times as determined by the license administrator ~~as appointed by the deputy of~~ the division of inspections construction and business services shall inspect each licensed public vehicle for hire for compliance with the motor vehicle equipment requirements of IC 9-19 and section 996-123.

**Sec. 996-53. Post-licensure inspection of vehicle.**

At least two (2) times each year, on a schedule or at such unannounced times as determined by the license administrator, the division of inspections construction and business services shall inspect each licensed public vehicle for hire for compliance with the motor vehicle equipment requirements of IC 9-19 and section 996-123.

**Sec. 996-54. Removal from service.**

If a licensed public vehicle for hire is inspected pursuant to section 996-53 and found not to comply with the motor vehicle requirements of IC 9-19 or section 996-123, any monthly taxicab certificate shall be immediately removed from the vehicle and canceled. The division of inspections construction and business services shall thereafter reinspect the vehicle upon the request of the licensee.

**Sec. 996-73. Pre-licensure inspection of taximeter.**

The license administrator as assigned by the deputy director of the division of construction and business services, with the assistance of the inspector of weights and measures of the department of ~~code enforcement~~ business and neighborhood services, shall inspect the taximeter of each vehicle to be licensed as a taxicab to establish whether the taximeter is operating properly.

**Sec. 996-74. Post-licensure inspection of taximeters.**

At least two (2) and not more than five (5) times each year, on a schedule or at such unannounced times as determined by the license administrator, the license administrator, with the assistance of the inspector of weights and measures of the department of ~~code enforcement~~ business and neighborhood services, shall inspect the taximeter of each licensed taxicab to establish whether the taximeter is operating properly.

**Sec. 996-76. Removal from service.**

If a taximeter is inspected and found to be operating improperly, any monthly taxicab certificate shall be immediately removed from the vehicle and canceled. The division of ~~inspections~~ construction and business services shall thereafter reinspect the taximeter upon the request of the licensee.

**Sec. 996-104. Taximeter security.**

All taximeters shall be in an enclosed case permanently attached to a taxicab, and no person other than the license administrator or the division of ~~inspections~~ construction and business services shall remove or tamper with the case, the taximeter or the seal placed on any taximeter by the license administrator, unless the current taximeter and monthly taxicab certificates are first surrendered to the license administrator.

**Sec. 996-122. Dispatching log.**

Each owner or operator of a public vehicle for hire that is licensed under this chapter shall maintain, at a location in the city, a record of all customer service transactions including the date and time of the agreement to provide service, the dates, times and locations where the customer is picked up and dropped off, the name of the operator, and the amount of the fare. Dispatching logs shall be retained for at least one (1) year by the owner or operator and shall be open to inspection on demand by the division of ~~inspections~~ construction and business services and any law enforcement agency having jurisdiction over the geographical area where the record is located.

**Sec. 996-138. Limitations on operator's number of hours; operator's log.**

- (a) It shall be unlawful for a person to operate a public vehicle for hire in the city for a cumulative total of more than:
- (1) Twelve (12) hours in any period of twenty-four (24) consecutive hours; or
  - (2) Twenty (20) hours in any period of forty-eight (48) consecutive hours.

For purposes of this section, a person shall be deemed to be operating a public vehicle for hire at all times the vehicle is in service, and regardless of whether or not the vehicle is being driven.

(b) Each operator of a public vehicle for hire shall maintain at a location in the city, and on a form provided by the license administrator, a record of each day or portion of a day in which he or she operates a public vehicle for hire, including the operator's name and signature, the date, and the times when the vehicle was placed in service and taken out of service. Operator logs shall be retained for at least one (1) year by the operator or owner, and shall be open to inspection on demand by the division of ~~inspections~~ construction and business services and any law enforcement agency having jurisdiction over the geographical area where the record is located.

(c) A person's first violation of this section in a twelve (12) month period shall be subject to the enforcement procedures provided in Chapter 103, Article III, of the Code, and each second and subsequent violation in a twelve (12) month period is subject to the enforcement procedures and penalties provided in section 103-3 of the Code.

SECTION 3. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 4. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 5. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

PROPOSAL NO. 213, 2016 Councillor Robinson reported that the Public Safety and Criminal Justice Committee heard Proposal No. 213, 2016 on June 15 and July 6, 2016. The proposal, sponsored by Councillor Robinson, approves a transfer of \$350,000 in the 2016 Budget of the Marion Superior Court (County General Fund) to Character 03 to cover the cost of jurors, psychological evaluations and interpreters, funded by savings in Character 01. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Robinson moved, seconded by Councillor Adamson, for adoption. Proposal No. 213, 2016 was adopted on the following roll call vote; viz:

23 YEAS: Adamson, Clay, Coats, Cordi, Evans, Fanning, Gray, Holliday, Jackson, Johnson, Kreider, Lewis, Mascari, McHenry, McQuillen, Miller, Oliver, Osili, Pfisterer, Ray, Robinson, Sandlin, Simpson  
0 NAYS:  
2 ABSENT: Freeman, Scales

Proposal No. 213, 2016 was retitled FISCAL ORDINANCE NO. 18, 2016, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 18, 2016

A FISCAL ORDINANCE amending the City-County Annual Budget for 2016 (City-County Fiscal Ordinance No. 36, 2015) by transferring Three Hundred Fifty Thousand dollars (\$350,000) for purposes of the Marion Superior Court.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since its adoption, the City-County Annual Budget for 2016 is hereby amended by the increases and decreases hereinafter stated for purposes of the Marion Superior Court.

SECTION 2. The Marion Superior Court, transfers appropriations to cover the cost of jurors, psychological evaluations and interpreters from savings in personnel. The following changes to appropriations are hereby approved:

<u>FUND</u>	<u>CHAR 1</u>	<u>CHAR 2</u>	<u>CHAR 3</u>	<u>CHAR 4</u>	<u>TOTAL</u>
County General	(350,000)		350,000		0

SECTION 3. Upon approval of this, and other pending approvals, the 2015 year end and projected 2016 year end fund balances are as follows:

	Projected 2015 year-end balance	Projected 2016 year-end balance
County General	9,378,033	5,619,637

SECTION 4. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 229, 2016. Councillor Osili reported that the Metropolitan and Economic Development Committee heard Proposal No. 229, 2016 on July 11, 2016. The proposal, sponsored by Councillors Osili and Adamson, approves the initial agreement between the City and Indianapolis Public Schools permitting the City to enter into a project agreement with the chosen developer of the SCIPS property as a condition to closing of the developer's purchase of the SCIPS property from IPS, and alternatively the City's purchase of the SCIPS property. By a 7-0-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Miller thanked the Mayor for showing bold leadership on this issue. He said that real estate is not IPS's forte, and this is a large, critical piece of real estate that can help to bridge and connect neighborhoods to downtown. He said that this action is worth the risk, because the City will now have a seat at the table regarding the development of this piece of property. He said that there are four other bidders, so he feels that if the current developer does not succeed, the property would not be held for very long. He said that all the neighbors have provided positive feedback to his knowledge.

Councillor Pfisterer said that it is true that IPS is not a real estate developer and that is not their forte, but it is not a function of City government, either. She said that by supporting this action, they are setting a bad precedent. She said that the Council can provide adequate input in a variety of other ways and she does not think the City should put themselves on the hook for this particular development.

Councillor Gray said that he will support the proposal, but he envisions that this will eventually cost the City something.

Councillor Oliver asked about the parameters of the agreement. Thomas Cook, Chief of Staff, Office of the Mayor, said that this is not like regular incentive agreements. With regular incentive agreements a lot of time is spent getting feedback from the neighbors, and insuring that the concerns of the neighbors are included. Regular incentive agreements also allow them to have some say in minority, women, veteran, and disabled involvement in the project, the connectivity to existing road infrastructure, the hiring of Marion County residents as much as possible, and some say in what is built and how it is built. He said that this agreement only has two requirements with Hendricks (the chosen developer) and IPS: the transfer of funds and Indiana Historic Preservation Commission (IHPC) approval. He said that these other items included in regular incentive agreements are not in this initial agreement they are approving this evening, but if this passes, he will attempt to bring as many of these requirements to bear in this instance. Councillor Oliver asked if this insures that supplies for this project will be bought and spent in Marion County. Mr. Cook said that these are the types of concerns they will take to the developer in negotiating a project agreement. He said that the developer has no reason to sit down with them yet, and this proposal is the only way to bring that discussion forward.

Councillor Simpson said that there are tons of blighted areas, abandoned houses, and overgrown weeds in his district. He said that the new Mayor promised that these neighborhood issues would be addressed, but once again, downtown is the main focus. He said that his constituents voted for him to bring change in their community. He said that they need to spend more dollars and time on helping struggling communities and changing living conditions for citizens to give them hope, instead of risking \$12 million dollars on a project they should not be involved in, especially with the financial position the City is in at this moment. He said that he will oppose the proposal.

Councillor Fanning asked if this project agreement would preclude Hendricks from coming back later and asking for financial assistance or incentives from the City. Mr. Cook said that right now, in their agreement with IPS and early discussions, the developer has consistently said that they will not be asking for incentives. He said that they are seeking some incentives from the State of Indiana for environmental remediation, but it has been their position from the start that they would not seek local incentives. He said that there is nothing in this agreement that precludes them from coming back in the future and asking for incentives, but they would have to go through the normal legislative process for approval. He said that when discussion begin and the City asks for some of these other requirements that have been mentioned, the developer may only agree to them if the City offers them some incentives. He said that this would, however,

create a situation where they would have to come back to this body for approval of such incentives.

Councillor Adamson said that this property does affect a neighborhood, the Chatham Arch, neighborhood, and those neighbors are interested in the development of this property. He said that the issue of parking spaces, the commitment to greenspace, and the preservation of a historic building are of paramount importance to these community neighbors, and they would not have any representation at the table without this proposal.

Councillor Kreider said that he supported this proposal in committee in order to get it to the Council floor for the full Council to weigh in on; however, he has reservations that the developer may come back asking for incentives later, or that the City would somehow be left on the hook for \$12.5 million. He said that he will oppose the proposal.

Councillor Sandlin said that he agrees with Councillors Pfisterer and Simpson, and City government is not a general contractor. He said that this was a complaint when former City employee David Rosenberg drove the Criminal Justice Center project, and now it is happening with IPS. He said that he is not prepared to ask his constituents to take on the risk of \$12 million.

Councillor Clay said that he is concerned about this proposal given the City's structural deficit projections. He is troubled that it has still not been clearly articulated why the City needs to be involved in an acquisition of real estate between IPS and this developer. He said that if the City comes to the table and gives the developer a list of expectations, even though they have said they would not ask anything of the City; there is something wrong in the reasoning that the developer will not then come back and ask for things in return. He said that he has to oppose this proposal because of his fiscal responsibility to the people of District 13.

Councillor Robinson asked for consent to abstain. As an educator, he often works in conjunction with IPS. Consent was given.

Councillor Osili moved, seconded by Councillor Adamson, for adoption. Proposal No. 229, 2016 was adopted on the following roll call vote; viz:

*14 YEAS: Adamson, Cordi, Evans, Fanning, Gray, Jackson, Johnson, Lewis, Mascari, McQuillen, Miller, Oliver, Osili, Ray*  
*8 NAYS: Clay, Coats, Holliday, Kreider, McHenry, Pfisterer, Sandlin, Simpson*  
*1 NOT VOTING: Robinson*  
*2 ABSENT: Freeman, Scales*

Proposal No. 229, 2016 was retitled SPECIAL RESOLUTION NO. 30, 2016, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 30, 2016

PROPOSAL FOR A SPECIAL RESOLUTION approving the initial agreement between the City and Indianapolis Public Schools permitting the City to enter into a Project Agreement with the chosen developer of the "SCIPS" property as a condition to closing of the developer's purchase of the SCIPS property from IPS, and alternatively the City's purchase of the SCIPS property.

WHEREAS, the Board of School Commissioners ("Board") and the City of Indianapolis ("City") desire to reach an agreement concerning the disposition of the Service Center for Indianapolis Public Schools ("SCIPS"); and

WHEREAS, IPS and the City conducted due diligence to study various opportunities that would benefit all parties; and

WHEREAS, the agreed upon terms are in the best interests of IPS, the City, affected neighborhoods, and the disposition process.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The City-County Council of Indianapolis and Marion County hereby approves the May 19, 2016 agreement between IPS and the City of Indianapolis (attached hereto as Exhibit A) as presented in conjunction with this resolution; provided, however, that the City's conditional purchase of the SCIPS property is subject to appropriation by the council for that purpose.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 247, 2016. Councillor Johnson reported that the Rules and Public Policy Committee heard Proposal No. 247, 2016 on July 12, 2016. The proposal, sponsored by Councillor Lewis, amends Chapters 135, 141, 151, 181, and 282 of the Revised Code in order to clean up Code language, repeal obsolete provisions and update certain deadlines to conform to actual practice. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended.

Councillor Adamson asked if there are any provisions in here related to the Department of Public Works (DPW), such as streets or parking, that were deemed obsolete. Bart Brown, Council CFO, stated that no parking provisions were included.

Councillor Johnson moved, seconded by Councillor Gray, for adoption. Proposal No. 247, 2016 was adopted on the following roll call vote; viz:

23 YEAS: Adamson, Clay, Coats, Cordi, Evans, Fanning, Gray, Holliday, Jackson, Johnson,  
Kreider, Lewis, Mascari, McHenry, McQuillen, Miller, Oliver, Osili, Pfisterer, Ray,  
Robinson, Sandlin, Simpson  
0 NAYS:  
2 ABSENT: Freeman, Scales

Proposal No. 247, 2016 was retitled GENERAL ORDINANCE NO. 42, 2016, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 42, 2016

PROPOSAL FOR A GENERAL ORDINANCE to amend Chapters 135, 141, 151, 181, and 282 of the Revised Code of the Consolidated City and County in order to clean up Code language, repeal obsolete provisions and update certain deadlines to conform to actual practice.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Sections 141-104, 151-34, 181-202 and 181-205 of the "Revised Code of the Consolidated City and County" are hereby deleted in their entirety by language that is stricken-through as follows:

**~~Section 141-104. Courts and prosecuting attorney; report to the Council.~~**

~~On or before July 1 of each year, the circuit court, Marion Superior Court and prosecuting attorney shall each submit to the city county council a report describing its contracting and purchasing procedures, and contracts and purchase orders executed or processed during the preceding twelve month period, including but not limited to identification of the parties, the services and supplies contracted for, and the contract dollar amounts.~~

**~~Section 151-34. Ad hoc county employees' salary committee~~**



- a) ~~As soon as practicable after March 1 of each year, there shall be appointed an ad hoc committee of the council consisting of three (3) to seven (7) members of the administration and finance committee and the public safety committee. The committee shall be known as the ad hoc county employees' salary committee. The membership of the committee is not limited to members of the administration and finance committee and public safety committee, but may include members of any standing committee that customarily has responsibility for reviewing county appropriations. The chairman of the administration and finance committee shall be the chairman of the committee, and the chairman of the public safety committee shall be the vice chairman of the committee, provided that they may appoint others to serve in their places. The other members of the committee are appointed by the chairman of the administration and finance committee, in consultation with the chairmen of other standing committees which customarily have responsibility for county appropriations. All appointments are subject to the approval of the committee on committees.~~
- (b) ~~The ad hoc county employees' salary committee shall focus on a partnership with county government in researching and identifying efficiencies and revenues needed to finance moving the county salary schedule toward and to market value, at the midpoint, as well as keeping the salary schedule current with necessary cost of living adjustments. This research and identification shall be based on criteria determined by the committee, but should include consideration of the rate of turnover in county employment units, the degree of unfavorable variance of salaries from the midpoints of job classification ranges, as well as prior year budget reversions.~~

#### **Section 181-202. Annual financial reports**

~~On or before February first, of each year the controller shall file with the city-county council financial reports showing:~~

- ~~(1) For past year the actual revenues and receipts and uses of the county option income tax and cumulative development funds;~~
- ~~(2) The certified anticipated receipts from the local option income tax and cumulative development funds for the current year and budgeted expenditures; and~~
- ~~(3) A proposed allocation of the anticipated revenues for the next budget year from the county option income tax and cumulative development funds including recommendations for increases or reductions in the rate of county option income tax, homestead credit and cumulative development funds.~~

#### **Section 181-205. Allocations of certain revenues.**

~~On or before the first day of April each year, the committee on rules and public policy shall recommend to the city-county council an allocation of the revenues from federal revenue sharing, county option income tax, and cumulative capital development funds for purposes of preparation of the budget for the succeeding year.~~

SECTION 2. Sections 135-298, 151-1101, 181-204, 282-112, 282-113 and 282-115 of the "Revised Code of the Consolidated City and County," regarding various City-County Council deadlines, hereby are amended by the deletion of the language that is stricken-through and the addition of the language that is underscored, to read as follows:

#### **Sec. 135-298. Procedure for expenditures from the drug free community fund.**

(a) ~~Prior to March 1 of each year, the council will have introduced a proposal for a council resolution supporting the current local coordinating council or with a recommendation to the Drug Free Indiana Commission for the replacement of the local coordinating council for Indianapolis/Marion County.~~ A local coordinating council established pursuant to IC 5-2-6-16(a) shall make determinations for expenditures from the drug free community fund for appropriation by the city-county council. A proposal to approve and appropriate the determinations shall be introduced to the council and referred to its public safety and criminal justice committee.

(b) At a public meeting of the committee, and after giving due consideration to the determinations of Drug Free Marion County, the committee shall report such proposals to the city-county council for final action.

(c) The determinations made by Drug Free Marion County and reviewed by the committee shall be consistent with the comprehensive drug free community plan and the requirements of IC 5-2-11-5.

(d) No substantive rights or remedies are created or conferred on any person by the adoption of this section.

#### **Sec. 151-1101. Establishment and review of standards for ethical conduct for councillors.**

Prior to March 4 31 of each year, the ethics committee shall review the standards of ethical conduct for councillors and devise and propose any amendments the committee deems necessary or appropriate. The review of standards can be accomplished electronically or by any other correspondence. If no committee member deems necessary any changes or amendments to the current standards of ethical conduct, the ethics committee shall not meet. On an annual basis, the

chair of the ethics committee must confirm to the Clerk that all members of the ethics committee have reviewed and consented to the establishment and review of standards for ethical conduct for councillors.

**Sec. 181-204. Recommendations for taxing changes.**

On or before ~~the first day of March each year~~ July 1, the committee on rules and public policy shall recommend to the city-county council such proposals as it deems appropriate to freeze or increase the county option income tax, to increase or to decrease the cumulative development rates, or to increase or to decrease the homestead exemption.

**Sec. 282-112. Members, appointments and qualifications.**

(a) The panel shall consist of ~~three (3)~~ five (5) members appointed by the city-county council:

(1) Two (2) members of the panel shall be nominated by the leader of the members of the city-county council who are members of the political party having the largest representation on the council.

(2) One (1) member of the panel shall be nominated by the leader of the members of the city-county council who are members of the political party having the second-largest representation on the council.

(3) One (1) member of the panel shall be nominated by the County Commissioners

(4) One (1) member of the panel shall be nominated by the Mayor

(b) The panel nominations shall be certified to the clerk by the ~~leaders of the respective caucuses~~ appointing authorities as soon as practicable after ~~February 1~~ March 1 of each year. The panel nominees shall then be confirmed as a group by a majority vote of the council; otherwise, if they are not confirmed, there shall be no panel for that calendar year. Members of the panel shall serve until their duties under Article V of Chapter 291 of this Code are performed, or until June 20 of the year of their appointment, whichever is sooner.

(c) Qualifications required for membership on the panel are as follows:

(1) Each member must be a resident freeholder of Marion County;

(2) Each member must be an executive having substantial responsibility for determining compensation levels in a private, for-profit, organization or have substantial experience in the field of human resources, or have substantial experience as an executive responsible for determining or recommending compensation levels in governmental organizations;

(3) No member may be an employee of Marion County, the City of Indianapolis, the health and hospital corporation, the Indianapolis-Marion County Building Authority, the Indianapolis-Marion County Airport Authority, or any other entity whose governing authority is substantially appointed by officials of Marion County and the City of Indianapolis.

(d) Vacancies which occur on the panel shall be filled by nomination by the same ~~council members~~ appointing authorities who nominated the departed member subject to confirmation by a majority vote of the council.

**Sec. 282-113. Officers and quorum.**

(a) A quorum of the panel shall be ~~two (2)~~ three (3).

(b) The first meeting of the panel shall be called by the clerk of the council or the clerk's designee, who shall preside until the panel shall have chosen a chairperson from among its members. The chairperson shall preside when present. The panel shall then choose a vice-chairperson to preside in the absence of the chairperson. The clerk or the clerk's designee shall act as secretary of the panel. The panel shall govern its own affairs within the limits

**Sec. 282-115. Duties of salary recommendation panel.**

(a) The panel is directed to recommend the level of salary of each employing official, employee in city-county government whose compensation is derived primarily from a salary paid from the county treasury, and the state treasury when the law provides for salary payments by the state to a local official. Recommendations must be consistent with any statutory limitations on the compensation which may be paid by county government. Salaries of

officers whose compensation may be determined by contract authorized by section 281-611 of the Code shall be excluded from panel review.

(b) In recommending each salary, the panel shall consider any other compensation of material value that is customarily provided to the employing official and employee, including fringe benefits. The panel shall also consider the length of the work day and work week and the number of days worked per year that is customary for the employing official and employee. In the context of these considerations, the panel shall employ the following four (4) criteria in recommending salaries and give them equal weight:

- (1) Parity with city department and division heads;
- (2) Comparability with private sector;
- (3) Salary range in the city-county's normal classification system;
- (4) Comparability with similar government organizations.

In instances where the employing official or employee is appointed and serves at the pleasure of a board or other official, the panel shall recommend a range of salaries, with the object of allowing the appointing authority to set the actual salary.

(c) The panel shall recommend salaries with the object of the recommendations being implemented on the first day of the coming calendar year, except in the case of employing officials who regularly serve terms greater than one (1) year. In these instances, the recommendations of the panel shall be made in the year prior to the year an individual is regularly selected to serve. In other years, the panel shall recommend only the amount of a cost of living adjustment.

(d) The panel may take action up to June 20 of the year of their appointment, at which time its recommendations shall be recorded by the clerk and certified by him to the controller. In the event the panel has taken no action to recommend a salary for an employing official and employee, the absence of a recommendation shall be treated as a recommendation that the salary or range of salaries for that employing official be left unchanged.

SECTION 3. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 4. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 5. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

PROPOSAL NO. 261, 2016. Councillor Osili reported that the Metropolitan and Economic Development Committee heard Proposal No. 261, 2016 on July 11, 2016. The proposal, sponsored by Councillors Evans and Pfisterer, approves the City's submission of a grant application to the U.S. Economic Development Administration for a Recovery Coordinator position to assist with the new Carrier Task Force. By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Fanning said that this seemed like a lot of money in the beginning for just one person, but she has learned that it will include funding for several other associated activities, and she believes it is greatly needed.

Councillor Osili moved, seconded by Councillor Evans, for adoption. Proposal No. 261, 2016 was adopted on the following roll call vote; viz:

*23 YEAS: Adamson, Clay, Coats, Cordi, Evans, Fanning, Gray, Holliday, Jackson, Johnson, Kreider, Lewis, Mascari, McHenry, McQuillen, Miller, Oliver, Osili, Pfisterer, Ray, Robinson, Sandlin, Simpson*

*0 NAYS:*

*2 ABSENT: Freeman, Scales*

Proposal No. 261, 2016 was retitled COUNCIL RESOLUTION NO. 90, 2016, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 90, 2016

A COUNCIL RESOLUTION approving the City to submit a grant application to the U.S. Economic Development Administration for a Recovery Coordinator position to assist with the Carrier Task Force.

WHEREAS, Carrier, Inc. on the Westside of Indianapolis announced it will be closing its facility and ceasing operations beginning in March of 2017; and

WHEREAS, the closure of the Carrier facility will result in the loss of 1,400 manufacturing jobs; and

WHEREAS, the Mayor created via Executive Order the Carrier Workers Task Force charged with finding ways to mitigate the hardship facing Carrier employees and the City; and

WHEREAS, the Carrier Workers Task Force recommends the City apply for a grant through the U.S. Economic Development Administration to fund a Recovery Coordinator position responsible for securing future funding for the City to address long-term economic planning and technical assistance; and

WHEREAS, the U.S Economic Development Administration grant requires a fifty-percent (50%) funding match from the applicant the City of Indianapolis.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The City-County Council hereby authorizes the City to submit a grant application to the U.S. Economic Development Administration for the Recovery Coordinator position.

SECTION 2. The City-County Council hereby certifies that the matching funds for the grant in the amount of Seventy-One Thousand Dollars (\$71,000 USD) are readily available and unencumbered.

SECTION 3. The City-County Council hereby authorizes Brent Pierce, Administrator for Real Estate and Economic Development, to execute all necessary documents for the grant application in accordance with this Resolution.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 262, 2016. Councillor Johnson reported that the Rules and Public Policy Committee heard Proposal No. 262, 2016 on July 12, 2016. The proposal, sponsored by Councillor Osili, authorizes parking restrictions on Monument Circle (District 11). By an 8-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Johnson moved, seconded by Councillor Osili, for adoption. Proposal No. 262, 2016 was adopted on the following roll call vote; viz:

*21 YEAS: Adamson, Clay, Coats, Cordi, Evans, Fanning, Gray, Jackson, Johnson, Kreider, Lewis, Mascari, McHenry, McQuillen, Miller, Oliver, Osili, Pfisterer, Ray, Robinson, Simpson*

*2 NAYS: Holliday, Sandlin*

*2 ABSENT: Freeman, Scales*

Proposal No. 262, 2016 was retitled GENERAL ORDINANCE NO. 43, 2016, and reads as follows:

July 18, 2016

CITY-COUNTY GENERAL ORDINANCE NO. 43, 2016

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code to make various changes to Chapter 621, Parking, standing and stopping restricted.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. That the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana, specifically Sec. 621-125, Stopping, standing and parking prohibited at designated locations on certain days and hours, be, and the same is hereby amended by the deletion of the following, to wit:

ON ANY DAY

From 11:00 p.m. to 6:00 a.m.

Monument Circle, Northwest Quadrant, on the outer curb, from Market Street to a point two hundred fifteen (215) feet north of Market Street.

Monument Circle, Northwest Quadrant, on the outer curb, from a point two hundred ninety (290) feet north of Market Street to Meridian Street.

Monument Circle, Southeast Quadrant, on the outer curb, from Meridian Street to a point one hundred sixty-eight (168) feet east of Meridian Street.

Monument Circle, Southeast Quadrant, on the outer curb, from a point two hundred two (202) feet east of Meridian Street to Market Street.

Monument Circle, on the Southwest Quadrant, on the outer curb, from Meridian Street to Market Street.

SECTION 2. That the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana, specifically Sec. 621-126, Parking time restricted on designated days, be, and the same is hereby amended by the deletion of the following, to wit:

TWO HOURS  
ON ANY DAY

From 6:00 a.m. to 11:00 p.m.

Monument Circle, Northwest Quadrant, on the outer curb, from Market Street to a point two hundred fifteen (215) feet north of Market Street.

Monument Circle, Northwest Quadrant, on the outer curb, from a point two hundred ninety (290) feet north of Market Street to Meridian Street.

Monument Circle, Southeast Quadrant, on the outer curb, from Meridian Street to a point one hundred sixty-eight (168) feet east of Meridian Street.

Monument Circle, Southeast Quadrant, on the outer curb, from a point two hundred two (202) feet east of Meridian Street to Market Street.

Monument Circle, Southwest Quadrant, on the outer curb, from Meridian Street to Market Street.

SECTION 3. That the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana, specifically Sec. 621-125, Stopping, standing and parking prohibited at designated locations on certain days and hours, be, and the same is hereby amended by the addition of the following, to wit:

ON ANY DAY

From 6:00 p.m. to 6:00 a.m.

Monument Circle, Northwest Quadrant, on the outer curb, from Market Street to a point two hundred fifteen (215) feet north of Market Street.

Monument Circle, Northwest Quadrant, on the outer curb, from a point two hundred ninety (290) feet north of Market Street to Meridian Street.

Monument Circle, Southeast Quadrant, on the outer curb, from Meridian Street to a point one hundred sixty-eight (168) feet east of Meridian Street.

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SECTION 4. That the Revised Code of the Consolidated City and County, Indianapolis/Marion County, Indiana, specifically Sec. 621-126, Parking time restricted on designated days, be, and the same is hereby amended by the addition of the following, to wit:

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ON ANY DAY

From 6:00 a.m. to 6:00 p.m.

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Monument Circle, Southeast Quadrant, on the outer curb, from a point two hundred two (202) feet east of Meridian Street to Market Street.

Monument Circle, Southwest Quadrant, on the outer curb, from Meridian Street to Market Street.

SECTION 5. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 6. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 7. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

## **ANNOUNCEMENTS AND ADJOURNMENT**

The President said that the docketed agenda for this meeting of the Council having been completed, the Chair would entertain motions for adjournment.

Councillor McQuillen stated that he had been asked to offer the following motion for adjournment by:

- (1) All Councillors in memory of Theresa Franklin; and
- (2) Councillor Holliday in memory of Viola Bangel, Thomas Stephens and Marty Larch; and

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- (3) Councillor Pfisterer in memory of Daniel Haston, Michael Fitzgerald and Haldene Jackson; and
- (4) Councillor Adamson in memory of Rita Hodel Worden; and
- (5) Councillors McHenry and McQuillen in memory of James E. Dora; and
- (6) Councillor McHenry in memory of Robert Green; and
- (7) Councillor Lewis in memory of Darlene Fisher Parham.

Councillor McQuillen moved the adjournment of this meeting of the Indianapolis City-County Council in recognition of and respect for the life and contributions of Theresa Franklin, Viola Bangel, Thomas Stephens, Marty Larch, Daniel Haston, Michael Fitzgerald, Haldene Jackson, Rita Hodel Worden, James E. Dora, Robert Green, and Darlene Fisher Parham. He respectfully asked the support of fellow Councillors. He further requested that the motion be made a part of the permanent records of this body and that a letter bearing the Council seal and the signature of the President be sent to the families advising of this action.

There being no further business, and upon motion duly made and seconded, the meeting adjourned at 8:20 p.m.

We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the regular concurrent meetings of the City-Council of Indianapolis-Marion County, Indiana, and Indianapolis Police, Fire and Solid Waste Collection Special Service District Councils on the 18th day of July, 2016.

In Witness Whereof, we have hereunto subscribed our signatures and caused the Seal of the City of Indianapolis to be affixed.

  
President

ATTEST:

  
Clerk of the Council

(SEAL)